

INTERNATIONAL TERRORISM

104
Y 4. IN 8/19: S. HRG. 104-784

International Terrorism, S. Hrg. 10...

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

INTERNATIONAL TERRORISM

THURSDAY, AUGUST 1, 1996

Printed for the use of the Select Committee on Intelligence



JUN 23 1937

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1997

37-657

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-054157-3

INTERNATIONAL TERRORISM

104
Y 4. IN 8/19: S. HRG. 104-784

International Terrorism, S. Hrg. 10...

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

INTERNATIONAL TERRORISM

THURSDAY, AUGUST 1, 1996

Printed for the use of the Select Committee on Intelligence



JUN 23 1997

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1997

37-657

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-054157-3

SENATE SELECT COMMITTEE ON INTELLIGENCE

[Established by S. Res. 400, 94th Cong., 2d Sess.]

ARLEN SPECTER, Pennsylvania, *Chairman*

J. ROBERT KERREY, Nebraska, *Vice Chairman*

RICHARD G. LUGAR, Indiana

RICHARD C. SHELBY, Alabama

MIKE DEWINE, Ohio

JON KYL, Arizona

JAMES M. INHOFE, Oklahoma

KAY BAILEY HUTCHISON, Texas

WILLIAM S. COHEN, Maine

HANK BROWN, Colorado

JOHN GLENN, Ohio

RICHARD H. BRYAN, Nevada

BOB GRAHAM, Florida

JOHN F. KERRY, Massachusetts

MAX BAUCUS, Montana

J. BENNETT JOHNSTON, Louisiana

CHARLES S. ROBB, Virginia

TRENT LOTT, Mississippi, *Ex Officio*

THOMAS A. DASCHLE, South Dakota, *Ex Officio*

CHARLES BATTAGLIA, *Staff Director*

CHRISTOPHER C. STRAUB, *Minority Staff Director*

KATHLEEN P. MCGHEE, *Chief Clerk*

CONTENTS

	Page
Hearing held in Washington, DC:	
Thursday, August 1, 1996	1
Statement of:	
Bryan, Hon. Richard H., a U.S. Senator from the State of Nevada	19
Bryant, Robert, Assistant Director, Federal Bureau of Investigation	25
Cohen, Hon. William S., a U.S. Senator from the State of Maine	15
Freeh, Louis J., Director, Federal Bureau of Investigation	4
Glenn, Hon. John, a U.S. Senator from the State of Ohio	3
Hutchison, Hon. Kay Bailey, a U.S. Senator from the State of Texas	14
Kerrey, Hon. J. Robert, a U.S. Senator from the State of Nebraska	2
Kerry, Hon. John F., a U.S. Senator from the Commonwealth of Massa- chusetts	20
Kyl, Hon. Jon, a U.S. Senator from the State of Arizona	43
Robb, Hon. Charles S., a U.S. Senator from the Commonwealth of Vir- ginia	22
Schlesinger, James, Former Secretary of Defense	34
Shelby, Hon. Richard C., a U.S. Senator from the State of Alabama	17
Specter, Hon. Arlen, a U.S. Senator from the Commonwealth of Penn- sylvania	1
Thompson, Hon. Fred, a U.S. Senator from the State of Tennessee	45
Weinberger, Caspar, Former Secretary of Defense	32

INTERNATIONAL TERRORISM

THURSDAY, AUGUST 1, 1996

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 9:35 a.m., in room SH-216, Hart Senate Office Building, the Honorable Arlen Specter, Chairman of the Committee, presiding.

Present: Senators Specter, Shelby, Kyl, Hutchison, Cohen, Kerrey of Nebraska, Glenn, Bryan, Graham of Florida, Kerry of Massachusetts, Robb, and Thompson.

Also present: Charles Battaglia, staff director; Chris Straub, minority staff director; Suzanne Spaulding, chief counsel; and Kathleen McGhee, chief clerk.

Chairman SPECTER. The Senate Select Committee on Intelligence will now proceed. Within the past 40 days we have had three major tragedies: in Dhahran on June 25, with TWA Flight 800, and last Saturday, in Atlanta with a pipe bomb. And these tragedies have occurred against a background of terrorism which has gone on for a long time in a very intense way. And we're going to be considering some of the issues on terrorism this morning in our hearing, focusing on domestic terrorism and legislation which is currently pending before the Congress, with an effort being made to produce some legislation in response to the President's request.

There is a general consensus that there is a need for additional legislation, but also a strong view that we have to do it right and not rush to judgment. A good many of the provisions, perhaps ultimately all, will be ones which have been considered before, so they have been subjected to hearings, discussion, drafting. And we'll have a good idea as to where they stand.

We will be hearing from two former Secretaries of Defense, Caspar Weinberger and James Schlesinger, in a second panel which will focus, to a significant extent, on the question of state-sponsored terrorism. We are still looking at the incident of Dhahran with a question as to whether there is any state-sponsored terrorism involved there. We do not draw any conclusions; very important not to draw conclusions until we really know. But we have had a significant history of state-sponsored terrorism, with Libya being involved in the blowing up of the German discotheque, killing two Americans; with our retaliation in April 1986 with the bombing; and then with the blowing up of Pan Am 103, where the State Department made an official finding that Libya was involved.

Speaking only for myself, I believe our response to Libya has been inadequate. We have two men under indictment in Libya. And

I think we need to do more to find out where they are and to seriously consider ways to take them into custody. Not easy, but something that has to be worked on. With respect to retaliation in response to Libya, that's a big item yet to be considered.

Iraq was found to be responsible for an attempted assassination on former President Bush. And we responded there by a missile into the Iraqi intelligence headquarters on a weekend. Again, in my personal view, insufficient.

You have the Trade Center bombing with possible Sudanese involvement

And all of these are questions which we want to explore.

Today, we very much appreciate FBI Director Freeh taking time from what is an extraordinary schedule. Director Freeh made two trips to Saudi Arabia in the wake of Dhahran bombing. And the FBI has been doing Herculean work with other Federal agencies on TWA Flight 800. And now the Atlanta bombing comes up, so there's a great deal that has to be looked into.

Director Freeh can only be with us for a relatively short time today, and Assistant Director Robert Bryant is here, who will be in a position to follow up.

And I want to yield at this time to my distinguished colleague, the Vice Chairman, Senator Kerrey.

Vice Chairman KERREY. Thank you, Mr. Chairman. I have a statement that I ask to be part of the record.

Chairman SPECTER. Without objection, it will be made a part of the record.

[The prepared statement of Mr. Kerrey follows:]

SELECT COMMITTEE ON INTELLIGENCE, OPEN HEARING ON TERRORISM—AUGUST 1, 1996

Thank you, Mr. Chairman, and thanks to our first witness, Director Freeh of the FBI, for being with us today. I can only imagine how busy you must be these days, so I appreciate your willingness to inform us this morning.

I will be interested this morning to learn if you have the legal authorities you need to carry out your responsibilities, and also if FBI has the resources it needs to carry this load.

In a larger sense, I want to be sure our country is applying all its resources to these cases and to the problem of preventing, detecting, and deterring terrorism. One of the most powerful resources available is our national intelligence apparatus. When it comes to finding out what is going to happen in a foreign country or what is being planned in a foreign environment that can hurt Americans, our intelligence services are without peer. I want to be sure all the capabilities of CIA, NSA, and DIA that can work on this terrorist target are being used by the administration.

Whether the task of intelligence in a particular terrorism case is to support law enforcement in bringing suspects to trial in this country, or whether the task is to support mission planning for a military strike against the country responsible for an attack, intelligence will play an essential role. Even more importantly, the information we need to predict and counter terrorism attacks before they occur will come from intelligence. So intelligence is an essential element of our response to terrorism. This point might not be obvious to those who are less familiar than this committee is with America's intelligence capabilities, which is why I make it.

Director Freeh, I look forward to your testimony.

Vice Chairman KERREY. Director Freeh, I appreciate your coming before the Committee. This Committee has the responsibility for writing the law that authorizes the deployment of resources, signals, images, human intelligence resources, for national customers, and you're a very important national customer. And I hope that either your testimony or Mr. Bryant's—because I know he's going to

be staying after you head out to New York—will inform the Committee about things that we need to be doing that perhaps we're not doing, or reinforcing some things that we are doing that we need to continue doing, so that you as a national customer of intelligence are able to do the job you are supposed to be doing.

Chairman SPECTER. I'd like now to call on our distinguished colleague, Senator Glenn, one of the most active and effective Members of the Committee.

Senator GLENN. Thank you, Mr. Chairman. Just a couple of very, very short remarks.

I appreciate your being here this morning, and whether it's prevention, apprehension and prosecution, whatever, I think we're into a—I believe we're in a different type of warfare, internationally, than we've ever known before. This is dispersed little spots, whether it's a Beirut bombing or whether it—whatever it is, and I don't think we've even come close yet to formulating a policy by anybody as to exactly how we're going to cope with this thing. And I know when you find people willing to give their lives for their—whatever their cause is, misguided or not and willing to take a lot of other people along with them—how do you cope with that? And I don't think we've learned yet how to deal with this.

And we're going to have to have the best minds of the FBI, IFB, everybody else in sight, CIA, you name it, to get some guidance on how we do this. And it's going to require international cooperation, and it's going to require alliances between nations on how we deal with this thing. Warfare, you normally try and dump the economy of another country and make it so they can't continue. You do that now by computers basically, people hacking in and changing bank accounts and things like this, and terrorists involved with it. And it's a whole new realm of things that we haven't dealt with before.

So that's more than I intended to say, Mr. Chairman. But we appreciate your being here, because we need to bring all of our best thoughts together on this as to how we're going to deal with this for the future. And not just us, but it's all of our allies around the world, too. I think it's that important.

Thank you.

Chairman SPECTER. Thank you very much, Senator Glenn.

Senator Glenn puts his finger on a key spot, that it is warfare. It reminds of what President Reagan said in 1981. He said the Soviets like the arms race as long as they're the only ones in it. And then the United States got in the arms race and brought the Soviets to their knees. And warfare is going on, but it's one-sided warfare. They're at war against us, and we have to find an effective way to counter that.

Director Freeh, you and I have talked about a number of these issues. To the extent you can, in your opening statement, we would appreciate an update on TWA Flight 800, an update on what's happening in Atlanta. I appreciate knowing what has been done with the funds which have been available since the terrorist legislation was signed into law in April of this year. And we can get into this in the Q&A, but to the extent you can, tell us just what you expect to be able to get from the so-called roving wiretaps and the reasons which you see for the emergency authority.

I think the Congress is prepared to do what is necessary on the war against terrorism. We do not want to rush to judgment. When we talk about extending wiretap authority, we're talking about privacy rights, and it's a very careful balance which is up to the Congress to make. So we're interested in the specifics to the extent that you can give them as FBI Director, because we may be moving on that legislation, probably will be the balance of this week.

And to the extent that there are any matters which cannot be commented about publicly, we'll reserve those for a private session to the extent that may be necessary.

So we welcome you here, Director Freeh. Thank you for your good and hard work. And the floor is yours.

STATEMENT OF LOUIS J. FREEH, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Director FREEH. Thank you, Mr. Chairman, and its a privilege always to appear before this Committee. And we certainly appreciate the support, particularly from you, Mr. Chairman, Senator Kerrey, and the Members of this panel during the last 40 days, which have been a very difficult period for the country, certainly for our law enforcement agencies, completely consumed by the scope and the implication of these various investigations which you've mentioned.

Let me just begin by thanking this Committee in particular for what has been, in my view, extraordinary support, across the board support in the counterterrorism programs for the last three and a half years, particularly the time that I've resided in the FBI as the Director, beginning with the Digital Telephony Act, follow up by the passage and support, not just in the Senate, but this Committee, for the Counter-terrorism Act as it was passed by the Senate.

The assistance that this Committee in particular has given to the whole area of economic espionage, as you know, Mr. Chairman, one key area of that whole program is the protection of key assets and key infrastructure, the protection against cyber theft as well as cyber attacks to both physical and informational infrastructure, and that's an area and an initiative which you personally, Senator Kerrey, and this Committee have supported, and we appreciate that very much.

The whole idea of resources, resources calculated to be effective in the war against terrorism, again has been strongly supported by this Committee. Your intervention just in the last several weeks, you and Senator Kerrey, with respect to the pending encryption bills, has been from our point of view very critical. Although the encryption issue is difficult, I don't think it's solved, I think everyone is trying to solve it, some of the aspects of the current legislation to which you and Senator Kerrey objected, or at least asked for consideration, would have, if passed, in my view, been very detrimental to our counterterrorism program.

Let me just review briefly some of the highlights and circumstance with respect to the counterterrorism efforts, and then I'll try to answer some of the particular matters that you have. And I appreciate your consideration for my time this morning.

I think, Senator Glenn, you're correct when you talk about a war with respect to terrorism. I think the incidents of the last 40 days, whether or not the TWA flight turns out to be a criminal act or

terrorist act, even leaving that determination aside, I think the country and the American people have been experiencing an increasing war against them by terrorists and terrorist-supported activities.

If you just review some highlights of the last few years, we know on March 4 of 1994, four individuals were convicted in New York for the bombing of the World Trade Center.

January 23, 1995, we moved under an executive order to freeze the assets of several terrorist groups.

February 7, 1995, Ramsi Youssef was arrested in Pakistan, subsequently rendered to the United States to stand trial on two major indictments.

On April 12, 1995, Abdul Hakeem one of the accomplices in the Philippine air case, a charged defendant at this point, was again rendered to the United States.

August 2 of last year, another suspected world terrorist, World Trade Center defendant, Ishmail Najim was arrested in Jordan, rendered to the United States.

October 1, 1995, Sheik Rahman was convicted in New York. When he was sentenced on January 17 of 1996, both by his voice and the statements of his supporters, clearly threatened retaliation against the United States.

In May of this year, we also had the ruling with respect to Massuh Marzukh in New York City.

All of these events, certainly viewed by our enemies around the world, are not just the basis, but the predicates for more retaliation and more terrorism against the United States. So well beyond the last 40 days as this panel well knows and as this history briefly reflects, the United States and its interests both here and around the world are clearly under attack and we are the prime targets for this type of terrorism, which unfortunately does not auger well for the future. And we may be in for a very difficult time with respect to a continuation of these types of things.

Some of the discussions that have been had recently with respect to the whole question of assets in the war against terrorism, whether those be specific statutory modifications or remedies or resources, I think are very well appreciated. The meeting that we had at the White House on Monday, which was a bipartisan meeting with the leadership of the Congress, I think made it clear that we needed to act and act fairly quickly, both in the immediate piecemeal things that can be done in the shortrun, as well as the long range, more systematic solutions and evaluations that have to be done.

I think that it is basically a twofold issue. There is the resource issue on the one hand. On the second hand, there is the whole question of infrastructure technology. As the Speaker pointed out at the White House meeting, are we prepared to fight counterterrorism in the information age? And I think that gets into the whole issue of infrastructure.

We are doing now—the FBI is doing now a one year interim responsibility in the whole area of the protection of information infrastructures, the physical protection of our cyberstructures as well as the protection of the information in those structures.

We know from advances in technology, and cases that we have even had recently with hackers, the whole question of our vulnerability in key industries—not just energy industries and utilities, but medical services, 911 services, our stock markets—which are so dependent on computers—and the benefits of the cyber age also have with it the vulnerabilities, and we are in an interim one year period preparing a multi-agency effort to combat that, with a long range study to deal with those issues.

The whole question of nuclear, biological and chemical warfare, particularly in the hands of terrorists, is again another area of vulnerability. We have deployed in the Olympics, for the first time, an interagency response capability for nuclear, biological and chemical attacks. We need to take that infrastructure, which was specific as to the Olympics, and expand it into a much larger framework.

The Congress has recently given \$350 million to the Department of Defense to begin training state and local public safety as well as law enforcement elements in the issues of nuclear, biological, and chemical attacks. That is a critical issue that needs to be looked at in the long run.

I met recently with the Commandant of the Marine Corps and we were talking about putting together some resources where we can study together and deploy both less than lethal forces which are very important in the law enforcement aspect of dealing with these things, but also the long range research that has to be done in law enforcement applications of technologies dealing with countering nuclear, biological, and chemical threats.

There are many, many provisions, Mr. Chairman, which you asked me to talk about with respect to legislative remedies or modifications in this area. You inquired particularly about the multi-point wiretaps. Again, those issues have been the subject of many hearings in the Congress. My view on them is fairly continuous, and that is that the slight modification which is being considered to the Title 18 provisions with respect to multi-point wiretaps are not dramatic, they are not extraordinary, they will not, in my view, lead to an avalanche of new electronic surveillance.

Right now the state of the law is that with respect to microphone surveillance, we can apply to a Federal judge for a multi-point or multi-facility coverage with respect to a microphone surveillance if we are unable to specify the specific place where a conversation is being had.

The modification being proposed, which is why I say it is not dramatic, would simply apply that same existing legal standard to wiretaps, to telephone conversations. So when we apply to a judge for coverage of someone's telecommunications and we can specify what particular phone they use, because we know that people who are sophisticated in this area throw away telephones, they clone numbers, they communicate in various ways. We would just simply be applying the same standard that we apply now to microphones. We would not have to show that the person is intentionally trying to thwart electronic surveillance. We would simply have to show that given the circumstances, the judge would be persuaded that there is no specific location, no specific telephone, where we can cover all the possible communications.

I have tried to be the Devil's Advocate on this myself. This is not, in my view as a prosecutor or a former judge, anything in the nature of dramatic changes or expansive powers, and I think it is a fairly prudent thing to do with respect to terrorism.

The other area that is being discussed this week is funding for the Digital Telephony Statute, which, of course, was passed by the Congress in 1995. As I mentioned in my remarks, I am very appreciative to you, Mr. Chairman, and this Committee, for your support of that. All this does is fund the decision which Congress made in 1994—a decision which was unanimous both in the House and in the Senate—that to fight not just crime, but terrorists in the information age, we need to have the current, court authorized access to digital communications systems that we now have in the analog system. We are simply trying to catch up with technology. And that is critical. That is critical to counterterrorism. It is also critical to the main complex criminal cases that we work.

Some of the other issues that are being discussed this week, I believe on the Hill today, with respect to wiretaps, would give us the authority to do emergency electronic surveillance in national security cases. We now have that power in criminal cases, in organized crime cases, where the Attorney General can authorize an emergency electronic surveillance under very stringent conditions, and within 48 hours prepare the normal application to a judge, which then has to be ruled upon and approved.

We are simply asking for a modification of that which would extend the coverage to terrorist cases—terrorism cases in the national security area. We do it now in the organized crime area. Again, my own view of that is that this is not a dramatic expansion of our powers or abilities.

There are many others, particular matters which are being discussed and rather than go through them all, I'll await to see whether you have any questions.

You also asked about the use of resources—resources which have been approved for the FBI and for the Department of Justice in the counterterrorism area. I have a meeting later today with Chairman Rogers, some of the Members of the Senate, I think, to report on that.

What I will say is that we have been somewhat behind in the hiring of people, particularly support people, who were approved and funded under the 1995 supplemental counterterrorism funding.

What I will say, however, on the other side of that equation, is that all of these individuals are individuals who require top secret clearances. These will be the people who will be the analysts in our most sensitive cases. Most of the positions that have been approved are now in the background stage. We have had a very difficult time in getting people qualified, getting them through the polygraphs, getting them through the background investigations. It is not simply a question of going out and hiring the first 249 people that apply. These are people that will have critical roles, not just in our counterterrorism program, but even access to our counterintelligence programs, and we want to be sure that we have the right people.

Our requirements are very, very stringent. We're also, unfortunately, restricted in many regards by Title 5. As you know, the

Central Intelligence Agency, the other intelligence agencies which this Committee oversees do not have the strictures of Title 5. They are exempted agencies with respect to Title 5, which means the DCI can recruit, hire, and offer compensation in ways that we can't. We are restricted by the OPM position classifications, the amount of money that we can pay someone, the conditions under which we can employ them.

One of the efforts that I have been pursuing for the last year within the Administration is to get the FBI out of Title 5, because particularly in the counterterrorism area, as well as the counterintelligence area, we need, in my view, the flexibility that would cut through a lot of the strictures which I think apply in very good sense to other government agencies, but for intelligence agencies, of which we are one, at least in the counterintelligence area, we need some of those restrictions.

Also with respect to those resources, all of the agents who have been approved under the counterintelligence—I'm sorry—under the counterterrorism funding, both in 95 and 96, are on board or will be on board by the end of the fiscal year. All of the support people who have been approved will be on board by the end of the calendar year.

If you remember, in 1994, when we began hiring special agents again, we were following a two year period where no special agents had been hired, where our complement fell from over 10,000 to about 9,000. To make up for that deficit, since the fall of 95—I'm sorry—the fall of 94, we have been putting 50 agents every two weeks through Quantico. I was at a graduation yesterday morning. We have had to make up for a very substantial deficit in our complement. But we will have all of those agents on board by the end of this fiscal year. We will have all of the support employees on board by the end of the calendar year.

Many of the other items in terms of those supplemental fundings are in the area of construction, and includes the laboratory, the FBI laboratory, which everyone contemplated would take several years to build. It includes other infrastructure in construction, which is ongoing, contracts are being let, but we are constrained by a lot of events including government contracting requirements to perform that. But I am committed to getting this—getting these obligations done in a proper way. I am also cognizant that we have been too slow in getting some of these expenditures made, particularly the support people on board, and I am working very, very hard, and am very committed to ensuring that all those resources, which are vitally needed, are obligated and committed as quickly as we can.

Thank you.

Chairman SPECTER. Thank you very much, Dr. Freeh.

The Committee will now proceed with five minute rounds of questions.

Director Freeh, permit me to begin with TWA Flight 800. It has obviously been a difficult matter to gather the evidence, and at the same time trying to find those victims, trying to ease the sorrow of the families and proceed on a priority basis there. There has been a great deal of speculation as to what happened on the flight, with the issue of a mechanical failure, the recent reports suggest

that the engines were not at fault but there may have been a mechanical problem with cracks in 747's so there was an extensive article in this morning's press about the possibility of the nose having broken off. There were suggestions of the possibility of a missile. There's been extensive investigation as to a bomb inside, and limited evidence of tracings, at least as reported initially. Can you give us an update as to where you stand there within the confines of what can be done publicly, and what the thinking is as to source and origin and perhaps beyond cause, as to who may be involved or at least some indication as to whether it is an organized group.

Director FREEH. Yes, certainly, Senator, and I certainly appreciate your noting the fact that at least publicly there are certain constraints. Being a former prosecutor, you, more than anyone, would appreciate the sensitivity of any comments or even opinions I would give at this point as they could affect the future prosecution.

First of all, our primary concern—and I was up there last Friday to see some of the 2,000 Federal, state and local public safety as well as law enforcement people who are working on this, round the clock—our primary concern, really, right now in the interim, has been the collection and the finding and the identification of these victims. Our hearts go out to these families, many of whom are still in a hotel outside Kennedy Airport awaiting word of their loved ones. We have recovered about 180 of the victims. Most of those have been identified, and we have taken great steps to ensure that the families receive news, particularly of very important developments, as soon as or before, actually, the public receives them.

We are still working on a three theory basis. The FAA, the Safety Board, as well as the Boeing engineers have not ruled out an accident. However, as has been publicly stated, that is a possibility which, if it turns out to be the fact, will be in all of their estimation, a very unusual anomalous type of episode. It is not anything which they can readily explain, or with respect to the safety history of this aircraft, point to with any degree of comfort or certainty. So it is still a theory. It has not been disproved. Most importantly because we have not recovered more than 2% of the plane, despite having enough resources to do that, and that is why precisely the Safety Board is still in charge of the investigation and not the FBI.

By the same token, we have worked this case, from July 17, as if it would be a criminal case, anticipating that if it is turned over to the FBI for a criminal investigation, we will have taken all the necessary steps to preserve evidence, collect evidence. Hundreds of people have been interviewed, both in the United States, as well as overseas. We have been working very closely with the Intelligence Community to obtain and receive any information that is relevant to the inquiry. We have been doing all the things that agents would normally do in an investigation—with the expectation that if it is turned over to us, we will not have lost any time, and we certainly will have preserved the chains of custody.

I was up there last Friday. I received extensive briefings with respect to the two theories which would be—theories of a criminal act being responsible for the downing of the aircraft. One is a missile theory. I also received extensive briefings on what would be the

theory placing an explosive device on board, or the alternative variant of that, which is someone bringing an explosive device on board.

The problem with the development of both theories—and again, the reason that the case is still in the Safety Board's hands, is that we have not found what we would view to be credible evidence of a criminal act which would trigger the turnover of the case from the Safety Board to us.

Chairman SPECTER. No credible evidence of a bomb?

Director FREEH. Not to date, sir.

Chairman SPECTER. Or a missile?

Director FREEH. That's correct.

Again, we have less than 2% of the aircraft. That is now changing very dramatically with increments as large portions of the aircraft are brought up. The two prongs of our inquiry are to determine whether there is any chemical explosive residue on the aircraft, which would explain the presence of an explosive device, or an external explosive device.

Secondly, the physical examination of all of the parts of the aircraft, every single part that is retrieved, to determine the same thing based on that forensic evidence.

If you remember, in the Pan Am 103 case, it took approximately one week to make a determination that there was a bomb. It then took several years, or the better part of two years, to identify the subjects.

The piece of evidence which actually began the resolution of the crime and the identification of the suspects was a piece of a timing device smaller than my fingernail, which indicated a Swiss made timing device, which was how we tracked the evidence back to the people who were ultimately charged. It's a very, very tiny piece of material found in an explosion over land. So I don't want to minimize the difficulties and the extra problems that the circumstances of this particular crash have given the investigators. But they are absolutely committed. The—the dedication and the work that I saw when I was there just Friday, I think would overwhelm you, would make you and the American people very proud. And they will find everything they can find and resolve the issue as quickly as we can.

Chairman SPECTER. Thank you very much, Director Freeh.

Senator Kerrey.

Vice Chairman KERREY. Thank you, Mr. Chairman.

Director Freeh, I believe we must take care in these responses to terrorism, that we don't react in a way that makes the terrorist happy. That is to say, do things that are essentially what the terrorist is trying to accomplish themselves.

Secondly, I editorially say that I also believe that we can't merely focus upon what kind of response, defense or offense, do we want to put in place. We need to look at some of the things that we may be doing that contributes to terrorism.

For example, I think increasingly we are seeing that we are vulnerable to attack from conventional weapons, and conventional arms sales continue apace. Indeed, we enacted legislation not long ago that provides a loan guarantee fund on the part of the American people, to sell weapons abroad. We were involved in Afghani-

stan for 10 years. Very, very important cold war struggle from 79 to 89, and then we quit. Wasn't important to us any more. We just walked away, basically, from it. Cut off even the last educational aid program a couple of years ago, and essentially said, well, it's not important to us any more, we're just going to walk away from it.

We zeroed out this week the National Endowment for Democracy. I mean, I just—I point that out because I think there are some areas where, in response to the terrorism, I mean, as we justifiably are trying to ask you what do we need to support—what do we need to do to support you in your efforts, I think we need to look and make sure that we're not doing things in other areas that may in fact be creating some of these problems.

You mentioned seven or eight incidences, all the way back to March 4, 1994, in the convicting of the four individuals in the World Trade Center, all the way through TWA 800. Can you tell the Committee the importance, to the extent possible in open session, the importance of support given you by the director of Central Intelligence during all of these efforts?

Director FREEH. Yes, I can. I can certainly generally say that the support of the DCI has been extraordinary, even as we speak, both in relation to the TWA tragedy, more specifically in connection with the bombings in Saudi Arabia. We have had extensive, but also meaningful and comprehensive exchanges of information in that regard based on the changes that we engineered in the FBI-CIA relationship over a year ago.

For instance, the deputy chief of our terrorism section, who works for Bob Bryant, is a CIA detailee, who not only is the deputy chief of the section, but he has line authority in that particular area, which is our whole counterterrorism program. That change is just one of many, many examples which have clearly, in my view, and very effectively brought the two agencies together.

I spoke to Mr. Deutch just the other night on a very important related matter. The support has been, in my view, excellent. I think that is a big step from where we were two years ago, quite frankly. That was not the case when I became the Director. And I am very satisfied, with the current situation, and particularly the DCI.

Vice Chairman KERREY. Could you—let me pick three of them, the conviction on the World Trade Center, the action against Ramsi Youssef, and the conviction and sentencing of Sheik Rahman. Could you have—would we have been successful without the national intelligence that was provided in all three of those cases?

Director FREEH. Yes, we would have. With respect to those particular cases, strictly from the evidence that was collected here in the United States, and the efforts to render and extradite those individuals back to the United States, to be perfectly frank with you, that was really law enforcement achievements and success in obtaining credible evidence and then bringing the people back. But—

Vice Chairman KERREY. No national intelligence was involved in—

Director FREEH. I was about to say "but."

The—many of the—many of the decisions which were made with respect to the collection of evidence and many of the factors with respect to the renditions and the identification of the subjects was the result in part of the assistance and collaboration by the national intelligence effort.

Vice Chairman KERREY. I mean, I am trying to make it clear because in your first answer you appear to say, no, the—you could have been successful in all three without the DCI. Are you saying that success would not have been possible without national intelligence?

Director FREEH. We would not have had the comprehensive understanding and response that we had to these incidents which are related to other incidents, without the input of the DCI. But as a matter of evidence, the evidence that was collected at the crime scene, the people who were arrested right afterwards, was the product of a law enforcement initiative.

Vice Chairman KERREY. Thank you.

Chairman SPECTOR. Thank you very much, Senator Kerrey.

Director Freeh, could you stay for a five minute round for the Members?

Director FREEH. Sure.

Chairman SPECTOR. We would very much appreciate it.

Senator Glenn.

Senator GLENN. Thank you very much, Mr. Chairman.

Let me swing a little broader loop here. I don't have—I don't know whether we are in the mode of responding to the bomb of the week, wherever it may be, or whether we're looking at this as a continuing major problem that we have got to deal with and we have got to organize to deal with. And it is sort of unbelievable that there would be people that call themselves civilized, at least, in the world, that whether in the name of their religion or whatever it is, in their own minds, at least, they are willing to train—international training camps in some places, to send people out and do this sort of thing. And I—I don't know whether we need to go to something like international intelligence teams or internationally organized SWAT teams, more R&D on explosives and gas and CW and BW. You know, you can put a—you could take a CW weapon that you couldn't—in plastic and it wouldn't be detected by anything going on an airliner, get on, set the thing off, and if you're willing to sacrifice your own life, why that circulates, the air circulates throughout and you take the crew and everybody with you. And they are incapacitated, and away the thing goes.

And I'm not—we seem to be responding and you respond beautifully, the FBI and CIA and everybody else in trying to find out what happened after these things occur. But are we really organized to—do we need a whole new approach in this thing, because this isn't something that is going to go away. We've got TWA 800 and Lockerbie and Beirut and World Trade and all the rest of these things on down the whole list, and it is not something that is going to go away. If anything, it is going to increase. And that's a big, broad loop there. But would you care to comment on that in the short time we have available here?

Director FREEH. Certainly, Senator.

I think in addition to responding to the current very rapid series of incidents, some of them clearly bombing attacks, we are doing that in a very responsible, in a very resource supported way, putting together not just the law enforcement agencies, but the military and the other people who have made our response as effective as I think it is.

We are not neglecting the long range problems. As I mentioned before, the long range technology infrastructure problems are being addressed. Those include the preparation to deal with electronic surveillance in the information age. It has to do with myself and the Marine Corps Commandant sitting down and trying to plan a resource center where we can combine our studies and efforts directed towards chemical, biological, and nuclear attacks.

Senator GLENN. Yeah, but how about—are we doing this internationally? This is an international problem. It is not going to go away. It happens to be hitting us, it has hit some other people now, and it is going to be continuing. Are we organizing like anything international intelligence or international SWAT teams, international something to go after this thing on a global basis?

Director FREEH. Yes, we are. We are in very close collaboration not just with out law enforcement partners overseas, but also our partners in the Intelligence Community. There are a series of—I can't describe them all in an open hearing, but there are a series of organized efforts and exchanges and protocols and continuing exchanges, both of people and information, which try to pool together the effect of available intelligence to prevent these types of things.

Senator GLENN. Okay.

Director FREEH. And I'd be happy to go into more detail in a closed session with you.

Senator GLENN. Ordinarily the FBI's been limited to sort of at the water's edge, you don't go beyond that, and the CIA takes over when we go abroad, and FBI dominates in this country, of course, in investigations. Your role has generally been in organized crime and now you're over into this counterintelligence thing. Is this—are your resources going to be spread a little thin here? It seem to me you can't do all these things on the increased scale you're operating on now and just do it with the same numbers of people and the same resources.

Director FREEH. That's right, we are being spread very thin. In terms of agents and analysts and resources to deal with these problems, we are being spread very thin. We could double the amount of people we have in our counterterrorism program and probably still not be where we need to be if this current trend continues. But you're absolutely right, our responsibilities have been expanded in a very dramatic sense. For instance, we have five agents in Riyadh now who are conducting the equivalent—not the equivalent, in reality a criminal investigation with respect to the two bombings in Saudi Arabia, to see whether we should exercise our extraterritorial jurisdiction.

Senator GLENN. My time is up, but will your need for resources be reflected in next year's budget, you working on that?

Director FREEH. Yes, sir. We are.

Senator GLENN. You might cut us in on some of that early on so we can help give you support on that.

Director FREEH. Thank you. I will.

Chairman SPECTER. Thank you, Senator Glenn.

Our practice on the Committee is to call on Senators on order of arrival.

Senator HUTCHISON.

Senator HUTCHISON. Thank you, Mr. Chairman. And thank you, Director Freeh.

I'd like to take a little bit different tack and talk about airport security. There is a bill—I'm on the Antiterrorism Task Force, and there's a bill that is being prepared on a bipartisan basis, working with the White House to try to come up with some early suggestions on things we believe would enhance our ability to detect potential terrorism at our airports and then have the Blue Ribbon Commission that the President is authorizing for a longer term look. Among the things that we're looking at is to try to use the resources of the FBI, because airport security, as you know, has really been run by the airlines in conjunction with the airport authorities. But it is clear if we're going to deal with terrorism that we need more resources that would be available through the FBI.

The things that we are looking at in the anti-terrorism task force are having the FBI and the FAA coordinate—and really it means the FBI helping the FAA look at the way we handle cargo and mail carriage and give us the suggestions, through the FAA, on what could be done to enhance security there.

Secondly, asking that there be an agent designated in the Category X airports, the 19 airports that are the most high risk, particularly having international travel, to have an agent that would be designated to be on call for airport security questions that would come up.

And the third thing is to have a requirement every three years where the FBI and the FAA do a joint threat assessment and vulnerability assessment at high-risk airports.

Do all of those sound reasonable from the standpoint of the FBI cooperation in this effort?

Director FREEH. Yes they do, Senator, very much so. We have agents currently assigned in the category airports that you mentioned, actually physically present at those airports. Of course, they are now primarily there for criminal investigative purposes. They are also there for response capability with respect to hostage taking or things like that. They have not been previously focused and have not been designated a role in the advisory, consultative, security protocols which you refer to. I think that would be a good user of resources. We're certainly prepared to do that.

Senator HUTCHISON. Thank you.

I would just like to say that I think there has been a frustration, especially with the families, but with the American people, on what they consider to be the slowness of information gathering. And I just want to point out that my experience with the National Transportation Safety Board is that we have not really had an accident of this nature over water. And, as you mentioned, Pan Am 103 was over land. So there was not the deterioration of evidence as we know there is in the water. And I think this has hampered the ability to say for sure that a bomb is the only way we can explain this accident, or a missile, which has not been ruled out.

Have you had a good working relationship with the NTSB and do you think that there is anything learned from this accident investigation that we ought to be looking at for the future in the coordination between FBI and NTSB?

Director FREEH. Yes, Senator. We've had an excellent relationship with the Safety Board, both myself and Jim Hall here and Jim Kallstrom and Vice Chairman Francis on the ground, all their people. And I can't say enough good things about them. I think their performance has been outstanding. I think their dedication and their skill is extraordinary.

What I would say on their behalf is they are completely and substantially underfunded with respect to their obligations. We are providing—for instance the FBI is providing them, and we are happy to do it—all of the communications facilities up there, most of the work power, most of the resources. When we learned what the funding of that agency was, the amount of responsibilities they have, the small number of people, I don't see how they can do their job effectively.

It's very fortunate that they have the support of the military and everyone else when they deploy. But a lot of what they do, as you know is dependent upon the airline company, the private company supporting them. I think for what they have to do, and how important it is, that they probably need resources very—very substantially.

Senator HUTCHISON. Well, let me just say—my time is up—but except for one other incident, they have never had a suspected bomb. And that one was a murder of a family member in that instance. Other than that, this is new for them. So I think the resources are going to be an issue as we start looking at the ways we are going to deal with this threat. And if you have any further thoughts about the coordination requirements, I wish that you would submit it later to us so that we could make sure that we have all the authority that you need and the NTSB needs.

Thank you, Mr. Chairman.

Director FREEH. Yes. Certainly.

Chairman SPECTER. Thank you very much, Senator Hutchison.

Senator Cohen.

Senator COHEN. Thank you, Mr. Chairman.

I'd like to just to offer a couple of comments to Director Freeh. I agree with Senator Hutchison that we need to do a great deal more to enhance the security at our airports, but I must say that no matter what we do, no matter how much we spend—and it will be in the neighborhood of billions—no matter how much inconvenience we are going to impose upon our flying public, there will never be any guarantee of safety. Because terrorists will look at the new hardened targets as such, and perhaps look away. If they can't get at the airports, who is to say they won't go outside of the airports in the parking lots. And if they can't get at the parking lots, they will then turn to train stations and bus depots and other softer targets. So the question becomes exactly how much can we in fact produce in the way of security for our people, versus a loss of liberties for our people. And that's a trade-off, it seems to me, that we have yet to face.

Our immediate reaction is we've got to do more, and indeed we do. But we also have to pause long enough to take a thoughtful look at exactly what we're willing to give up. For example, the question today, in my judgment, is not here today but it will be tomorrow, certainly. As we seek more and more information, that means the gathering of intelligence is going to enhance the powers of the FBI, the CIA, our law enforcement and other national security authorities. It also means there will be more inconvenience and indeed more intrusion—more sophisticated, perhaps, but more intrusion into the lives of private citizens. And the question that one day will come in terms of the American people is how much they are willing to yield to the eyes and the ears of a bigger brother, as being opposed to being vulnerable to the bombs of little brothers.

And we have not yet had that debate—and this is not the place for us to debate it. But it's one that we need to look at very carefully before we simply rush to have more security without thinking exactly what it's going to yield in the way of giving up some of our liberties.

With respect to this, I see it not so much as a law enforcement problem, but a political issue. And we have the former Secretary of Defense behind you who will be testifying shortly. But we had testimony last week from the Department of Defense witness that the FBI was not sharing all of the information it had in its possession with respect to the bombing in the Khubar Towers. And I was wondering whether or not shouldn't the Department of Defense, which has the responsibility for defending the lives of our military personnel, have as much information as you have? Is there any reason to withhold any information from Department of Defense sources as such, in the interests of perhaps securing that information for the prosecution of certain individuals?

Director FREEH. No, Senator, there is not. I'm aware of that witness's testimony. I'm also aware of a letter that he subsequently wrote to the Committee substantially modifying what he said in his testimony. But I have spoken to Secretary Perry and Deputy Secretary White, not about his specific testimony, but from the moment that we responded to the Riyadh bombing of November 13, all through my own trips to Saudi Arabia, and the investigation which has flowed from that, all of that information has been given, not just on a lower operational level, but directly from me to the Secretary and the Deputy—all of that information reflects and has implications for the security of our military personnel as well as civilians in the Kingdom and other places. We have given all of that information to them very promptly and very completely.

Senator COHEN. All right.

Let me just ask you one more question. I can see my time is about to expire. The question for me again is one of where do we draw the line between this being a law enforcement problem versus one of active warfare. And terrorism, after all it is political warfare turned into a military means.

But if the Department of Justice or the FBI determines that a state had a hand in sponsoring an act of terrorism, is it your judgment that that information should immediately be turned over to both—well to the Department of Defense, State, the CIA, the NSC,

in order to determine whether or not it should be responded to militarily?

Director FREEH. Yes.

Senator COHEN. As opposed to trying to accumulate enough evidence to prosecute a number of the individuals involved in the act itself?

Director FREEH. Yes, Senator. Absolutely. In fact I think they should get that information before we make that determination. It should be an ongoing process.

I think what you have to look at here is really two separate and related tracks. When we have a bombing such as we had in Saudi Arabia—even going back to Pan Am 103—as that information developed, there is a law enforcement response which is a very narrow response. We are obviously in the business of collecting evidence to present in court under all of the strictures and protections that we should have under the Constitution.

The separate track which is one that overwhelms the first one, in my view, is the national security track. This Committee and the President and the Congress do not need proof beyond a reasonable doubt to do what a jury does with respect to the criminal investigation. There are larger, much more important national security interests which, in my view, take precedence. And we have made it a practice in all of these investigations where we have this national security issue, to give all of that information promptly and quickly, as we develop it, to the policy-makers and to the Congress. And I think that's the way it needs to be.

Senator COHEN. Thank you very much.

Chairman SPECTER. Thank you very much Senator Cohen.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

I think this is a very important hearing.

Director Freeh, it seems to me that what we are doing and have been doing—and this is not your fault—is reacting to terrorism, to acts of terrorism over the years, going back many years. In other words, we are in a defensive mode in this country, and perhaps around the world. We are waiting, waiting, fearing, fearing the next act, be it on a plane, at an airport, in a shopping center, in a dance hall, somewhere, be it in the US, perhaps somewhere else.

Shouldn't we be trying to root out the cause of terrorism, because we know to some extent where a lot of it originates, who is causing some of it—maybe not exactly the act til you tie it there—what some of the motives are there, rather than just sit back in a bunker in America or make America into a bunker, and wait and fear and fear? Our policy is important, but up to now I believe that our policy, although it's not easy, has been just react. React. And that will only make it worse in my opinion.

Director FREEH. Senator, I agree with you. There is a 1989 study that I am sure you are familiar with, which was really the follow-up of the Pam Am 103 bombing. And the primary and most cogent conclusion of that was that the United States has to have the national will and the moral courage to exercise that in a much more broad-based manner.

Senator SHELBY. And our allies in the world or our friends and trading partners will have to have it too, because most civilized na-

tions in the world are going to be victims in some way of international terrorism planted by rogue groups or certain special interest groups, aren't they?

Director FREEH. Right. You are absolutely right. We can't respond to this problem adequately, and we can't prevent it by doing what we do, I think, very well. In the World Trade bombing case you couldn't have had a more professional, more effective investigation. People were arrested, they were charged, they were convicted. But that doesn't discourage terrorists from not only retaliating from that prosecution, but acting on their own.

Senator SHELBY. Absolutely. It doesn't go to the root cause, does it?

Director FREEH. Exactly. It does not.

Senator SHELBY. And as Senator Cohen and others have raised the specter of giving up something in America, giving up something—wiretaps, everything else, giving the FBI or others more latitude that they don't have today. That won't root out terrorism. It might help you react in some way, hopefully, to catch someone that has blown up a plane or blown up a shopping center or assassinated someone somewhere in the world, but it won't, will it, Mr. Director, root out terrorism.

Director FREEH. By itself, it won't. You're right. But—

Senator SHELBY. And it's a piecemeal approach, is it not?

Director FREEH. That's one half of the equation.

Senator SHELBY. Uh-huh.

Director FREEH. The responsive of part of it. It's very similar to—let me give you what I think is a good, although much smaller analogy. You have a small city in the United States—your state, some other state—where we have a crack gang basically taking over a neighborhood, a housing project.

Senator SHELBY. Right.

Director FREEH. And the police, you know, are arresting people in a sort of piecemeal fashion. They are taking down a couple of people, but the gang, the terrorism, the infrastructure, their resources are intact. So what we do is we don't simply continue to treat it as a routine criminal problem. We go in there with effective resources. We get intelligence as to what they are doing. We try to penetrate them with undercover agents. We make buys directly to arrest them. We attempt to use some of them to testify against the other. If we are successful, we take down that whole enterprise, the cause of it as well the appearance of it.

Senator SHELBY. And in your words, that's half of the equation isn't it? That's part of it.

Director FREEH. If you take down the whole enterprise in that analogy, that's the whole solution.

Senator SHELBY. Okay. How are we going to take down—my time is up—how are we going to take down terrorism?

Director FREEH. I think we need responsive capability within the Constitution. I don't think we should, nor do we have to sacrifice any of our constitutional privileges.

Senator SHELBY. Okay.

Director FREEH. But I think internationally, as you mentioned with our allies in particular, we need to have the international will and the moral courage to act on that and act on it decisively.

Senator SHELBY. Thank you, Mr. Chairman.

Chairman SPECTER. Thank you very much, Senator Shelby. Senator Bryan.

Senator BRYAN. Thank you very much, Mr. Chairman.

Director Freeh, let me focus your attention, if I may, on one of the other tragedies we have experienced, at the Khobar Towers. What can you share with us in open session of the status of that investigation?

Director FREEH. Senator, in open status I can tell you that we have made reasonable progress with respect to getting the cooperation and assistance from the Saudi authorities, particularly their law enforcement authorities, in order to work our end of the investigation, which is their end—it is the same investigation—and to do it cooperatively with all their details.

I have made two trips, as you know, to the Kingdom. I have spoken to the King. I have gotten assurances from every member of the royal Council that we would get this cooperation. We have 5 agents in Riyadh who are working with their counterparts in the Mukhabarat. We are getting much more information and details than we got at the beginning of our investigations. We want to encourage everybody, including our counterparts in the Kingdom to pursue those efforts of cooperation, to increase them. We are satisfied with the progress. We would like to be making a little bit more progress. We are certainly doing a lot better than we were a few weeks ago. And I would be happy in a private session to give you more details.

Senator BRYAN. Let me, just as a follow up on the cooperation, we are all very familiar with the circumstances of the Riyadh situation, where we weren't even allowed to interrogate those who were ultimately executed for their alleged acts of terrorism. Are you satisfied at this point that you are getting the level of cooperation and that your people in the field are getting the level of cooperation from the Saudi intelligence community, the law enforcement personnel that are your counterparts working this investigation?

Director FREEH. Senator, we are getting a reasonable measure of cooperation, as I mentioned.

I think the context of this is important to consider. We have never had—the FBI has never had a law enforcement relationship or interface with our counterparts in Saudi Arabia. In fact one of the proposals for our expanded law enforcement presence overseas, which the Senate and this Committee in particular supported is the placement of a FBI law enforcement representative in Riyadh so he or she can develop the relationships with their police, that if we have an investigation or a crisis like this, they know who we are; they understand what we are doing; they trust us and are willing to work with us. We have really started from scratch, beginning in November, of 95, with the Riyadh bombing to build that relationship. I am pleased with the progress, we have made good reasonable progress, we are certainly not at the level where in my view we need to be, but we are moving very quickly with all of our abilities to achieve that level.

Senator BRYAN. Director Freeh I'm not going to ask you the specifics of this, but to the extent that there are shortfalls at least im-

plicit in your testimony, there are some additional things that you would like to have that at this point have not occurred, you have shared those concerns, I take it, higher up in food chain, and we are in a position, at least, to work at the State Department level, at the Department of Defense level to communicate directly with the Saudis where we believe that improved cooperation is needed.

Director FREEH. Yes, I've shared them directly with the highest levels of our government, with Secretary Perry, who was in Riyadh yesterday, who has negotiated a financial arrangement with respect to protecting the 5,000 American troops there. He also raised the law enforcement cooperative issues on our behalf, as has Secretary Christopher, and I am sharing the details of where I think we are and where I think we need to be with all of those officials so they can also pursue it.

Senator BRYAN. I note my time is about up. I will relinquish the balance. Thank you very much, Director Freeh.

Chairman SPECTER. Thank you, Senator Bryan.

Director Freeh, Senator Bryan has raised a question which really needs to be pursued. We are on limited time and I have listened to your very carefully crafted testimony. You are satisfied with progress, you would like more progress, reasonable progress, reasonable measure of cooperation, not at level we would like—"not at level we need to be?" We are going to pursue that with you in closed session.

I think it is really indispensable that the United States get total and full cooperation. That is what Secretary Perry has said, we have been promised and are getting, and we need to know the details of that. If we are to stay in Saudi Arabia, we have to have total cooperation. So, we will pursue that with you in closed session.

Senator Kerry of Massachusetts, John Kerry.

Senator KERRY of Massachusetts. Thank you, Mr. Chairman.

Director Freeh, good morning. Thanks for being here with us. I appreciate it.

Director FREEH. Good morning.

Senator KERRY of Massachusetts. There are some people who argue that law enforcement today internationally in its cooperative capacity and in its technological capacity, is almost an 18th, 19th century operation against a 21st century problem. And I wonder if you would comment, if the nature of terrorism in the post-Cold War period, with the extraordinary advances of technology, the movement of capital across lines, the ability to hide behind corporate cardboard cutouts that are phony, has all of this really left you, in the law enforcement community, kind of grappling to catch up, and frankly behind the curve?

Director FREEH. Senator, I think that with respect to fighting crime and particularly fighting terrorism in information age, yeah, we are certainly significantly behind where we should be. It is not just terrorism. We had a recent case, for instance, where an individual in St. Petersburg, Russia, on a laptop machine hacked into a CityBank, New York City, moved millions of dollars out of that account before he was even detected by their internal security systems. Those are the types of 21st Information Age type crimes that

we are talking about that we are not completely equipped to deal with.

There are severe technology challenges that we are trying to meet, but they are very, very serious and very complicated, whether they be encryption, whether they be computerization, whether they be international agreements and protocols between governments, to aid and assist each other in investigations that no longer require simply the interview of a witness, or the securing of a bank document, they require very complex, in some cases, preventive actions, to meld the various systems of law together. It is a very complex problem.

Senator KERRY of Massachusetts. What do we need to—what concerns me is that our allies are in many cases practicing a kind of mercantilist policy to the exclusion of some of the measures that we need to put into place, and to the exclusion of a certain level of cooperation. Now, for the first time in history, we have empowered you, and you are in other countries in ways that you haven't been. Is it your sense that we need to do more, we need to find a greater level of cooperation with our allies?

Because it strikes me that none of these terrorist organizations could survive fundamentally—there will always be a terrorist entity of some kind or another with an interest—but that largest most dangerous of these entities survive with country support, the support of the country of Syria or country of Libya or country of Iran, Iraq and so forth. And when we have had cooperation such as we did with Italy, at least on some momentary occasion bringing down terrorists, we seem to be more successful. And yet the chase for jobs and money in the international economic leverage seems to counter our efforts to bring people together, to put adequate sanctions on some of these countries, to mitigate or change outright their behavior. Would you agree that there needs to be greater effort and do you agree with that observation?

Director FREEH. I certainly agree with the proposition that to be effective in what my jurisdiction now requires the FBI to do, we have to have the on the ground, cop to cop partnerships of significance and effectiveness that we do not have in many, many countries. Italy is a very good example. But let me talk briefly on that.

The whole history of the efforts by the United States and the Italian government against the Mafia, which is not dissimilar from a terrorist organization—it has the same structures; except for the motives; it works on the same principles of violence, and intimidation—we reached a point of cooperation with the Italian authorities where we had FBI and DEA agents in Italy working undercover doing surveillances. We had their counterparts here in the United States. We had an absolute commitment by those two governments to take down the Mafia and have made incredible strides and significant inroads into that structure.

I think the same level, the same model of cooperation, has to be expanded and applied not just to other countries but beyond the criminal law enforcement context into the intelligence context, and particularly the counterterrorism context. I agree with you very much.

Senator KERRY of Massachusetts. Mr. Chairman, I know my time is up. If at some point the Director could comment on the importance on taggants. I don't know if he has yet today.

Chairman SPECTER. He has not. We'll give him that opportunity at the close of the rounds of questioning.

Thank you, Senator Kerry.

Senator Robb.

Senator ROBB. Thank you, Mr. Chairman. Taggants is one of the questions that I was thinking about pursuing.

But let me just follow up on a more generalized question. In open session, it's difficult to go and to do some of the specifics—and I think it's inappropriate. But the question of overlap and turf, you've had, regrettably, to deploy your resources in a number of different places on relatively short notice in both the domestic arena and the international arena in recent weeks. And many of the questions related in one way or another to the degree of cooperation.

There hasn't been much discussion so far about potential overlap in terms of turf, domestically, with either the NTSB, the various other agencies here in this country, any of the political jurisdictions, et cetera. And you were alluding with respect to Senator Bryan's question and to Senator Kerry's question about the degree of cooperation on the international level. But are there areas where we should—we as the Congress, ought to look to, in terms of either treaties, protocols, other agreements with foreign governments, or some restructuring of the turf with respect to domestic relationships based on your significant, recent experiences in coordination with those various agencies ought to be looking at specific areas where change might be appropriate.

Director FREEH. Senator, on the domestic front I think the reason you haven't heard a lot of discussion about this issue is that it has not, very fortunately, been a problem for many of us. The cooperation, the synergy between the Safety Board's work in New York and the FBI's work has really been, in my view and the view of others, a flawless operation. We've not had any of the problems with respect to disagreements regarding turf or jurisdiction. And those have been remarkably absent. And I think that's credit to the people who were working there.

I think also domestically in the other cases that we've been working with, we've not had that problem. We used, for instance, yesterday, the FBI laboratory examiners went over to the ATF laboratory to consult with them and use a piece of equipment to make a determination with respect to the TWA case. I think on all levels the cooperation and the understanding of the jurisdiction has been clear.

One of the great achievements in the deployment of vast security resources to Atlanta for the Olympics has been a very clear delineation of the responsibilities of one agency vis-a-vis the other. So, I don't think, domestically, it has been a problem. I think internationally, what we need is a much larger, broad-based type of cooperation with our partners overseas, particularly our law enforcement partners. One of the reasons I have been so active in trying to expand the number of FBI agents overseas is not because I want to take over any other jurisdiction. They are not there solely for

collection of intelligence they are there to have working relationships with their counterparts, so when God forbid a bomb goes off, they are already up to speed with each other. For instance, we don't have FBI agents in Tel Aviv. We don't have any in Cairo, we don't have any in Islamabad, three of the very critical centers where United States interests, particularly in counterterrorism area, are greatly at risk. I think what we need to do overseas—

Senator ROBB. Let me just interrupt for a second. If it were not a question of resources but simply jurisdiction or authority to redistribute your assets in whatever way that was most effective from your point of view, would you, within existing resources, prefer to post agents at some of those locations or would that require additional resources if you were going to make such a decision?

Director FREEH. For those particular locations, we have received the resources. The Senate has approved what was 1996 appropriations, just recently released for expenditures, so in those areas we have been covered. We have also gotten approval on the Senate side for the opening of other law enforcement legats in many other countries which we are very grateful for, and there are new resources that go with that approval.

Senator ROBB. So it is a question now of authorization or access, not resources. Is that a fair interpretation of that?

Director FREEH. Yes, now we have to go through what will be a very truncated process of getting the foreign host country approval. Most of those countries have been asking for us, for many, many years and the deployment of people and resources to our embassies.

Senator ROBB. Thank you. I see my time is expired.

I was going to ask about taggants, but I suspect our Chairman is prepared to do just that.

Chairman SPECTER. Well, go ahead.

Senator ROBB. Well, I would—if you would like to comment on the value of the taggants to the work that the FBI is doing—as you know, that has been the subject of some considerable debate with respect to what kind of authorization, in terms of legislative activities, might be included, your perspective on just how valuable placing taggants in the explosives would be to following up on the kind of investigations that you have been pursuing that do involve explosives?

Director FREEH. Senator, I think the proposition that taggants, which would become a piece of identifying evidence in the resolution of a bombing case, sure, they would certainly by very, very helpful. I investigated a bombing case in Atlanta right before I became a Federal judge. It was a case where black powder was used in an explosive device to kill a 5th circuit judge and a civil rights attorney in Savannah. It was a totally circumstantial evidence case. We had no confessions. We had no co-accomplice testimony. Everything was done piece by piece, circumstantially, to prove the case which we did prove, after a trial, against one particular individual. In that particular case, which was dependent on circumstantial evidence, if we had a taggant in the black powder which we could then trace back to in what was our evidence, a dealer who sold a powder to that individual, it would be another good corroborative piece of evidence. So I would describe it as helpful particularly in those types of circumstantial evidence cases. In

the scheme of all the things that we need to be worried about, particularly in the technology and infrastructure area, I would not rank it towards the top.

Senator ROBB. Thank you, Director Freeh.

Thank you, Mr. Chairman.

Chairman SPECTER. Thanks very much, Senator Robb.

Director Freeh, we really appreciate your being here. The one subject which has not been covered has been the pipe bomb explosion in Atlanta. The Committee would be interested in a brief response on the progress of that investigation, to the extent you can comment publicly. And included in that, any indication of any organized activity, any indication of any militia activity with respect to that incident.

Director FREEH. Again, Senator, you know as well as I do, being a former prosecutor, it is difficult and would be important for me to not make any type of broad predictions, or evaluations. What I would say, is that we have not found any evidence, for instance, of an international terrorist group or a sophisticated group targeting the Olympics in general, with respect to that incident. As to the progress of the investigation, several hundred very good investigators, both Federal, state, and local, are doing what they normally do in those cases. They will not leave any stone unturned. There are a number of good leads that they have. There is a number of suspects that they are looking. But as my SAC made clear yesterday, nobody has been charged with a crime, nobody is about to be charged with a crime. We have had several suspects in this case, already who we focused on, and once we focused on them, they washed out as suspects because we developed evidence which was exculpatory and inconsistent with their participation.

The fact that somebody's name has surfaced or may surface, as you know from conducting investigations, doesn't mean anything. It certainly doesn't mean that person is guilty of anything. It certainly doesn't mean that people should speculate as to guilt. We work very carefully to get the evidence we need to go into a court. We also know that it is very clear that nobody rushes to judgment, on making accusations. We regret many times in these investigations that people's name surface as suspects who are later proven not to be connected. We want to avoid that. We should avoid it at all costs.

And again, we are confident that we are making good progress. We are certainly doing everything that investigators can do in this case. And we don't see any larger threats relating to this incident, either against the Olympics or the American people.

Chairman SPECTER. Well, Director Freeh, we very much appreciate your coming in. We have thought it very important to have some official, authoritative statement as to status of Atlanta and the pipe bomb, status of TWA Flight 800, an update on the Dhahran incident, and the pending efforts to get some legislation. You have testified about your being spread thin. There is one thing that I think there is unanimity of view on in the Congress and in the country, and that is to give you the resources that you need on counterterrorism. It is an overwhelming problem. And I have seen you personally—we have talked on many occasions in the past, we talk frequently, generally, but on many occasions in the past six

weeks, and I know you made two trips to Riyadh. I know you didn't see the King the first time. You saw him the second time. You are working on that, and then TWA 800 comes up and the herculean efforts your agency and other law enforcement agencies are making in Atlanta.

But we want to give you the resources. When it comes to the privacy questions, that is a balancing factor. When it comes to resources, there is no doubt about the congressional will and the public will to give what is necessary to law enforcement to do the job.

So, you keep us posted as to what you need.

Director FREEH. I will, certainly. And as I said before, Senator, particularly this Committee, going back to when I was appointed as director, has been extraordinarily supportive in the counter-terrorism efforts. And I want to take the opportunity, again, to thank all the Members of this Committee for that support. It has been absolutely extraordinary in my view, and in every endeavor that we have brought to you, you have given it fair consideration, prompt consideration, and ultimately, support. And I thank you for that on behalf of all law enforcement people.

Chairman SPECTER. Well, we appreciate your professionalism, Director Freeh. We know your background as an FBI agent, a Federal judge, and now Director, and we thank you for your service.

We have questions from Mr. Bryant as a follow up, if we may. And then we'll start the five minute round again.

Mr. Bryant, you are the Assistant Director of the FBI?

Mr. BRYANT. Yes, I am.

Chairman SPECTER. That means number two man?

Mr. BRYANT. Well, in charge of the National Security Division.

Chairman SPECTER. OK.

With respect to the broadening of wiretapping, I had talked about the privacy issue, and Senator Cohen has focused on that, and to the extent that you can be specific, would you tell us how the so-called roving wiretaps or a multipoint wiretap authority will be of aid in the terrorism fight and perhaps preventing terrorism?

Mr. BRYANT. OK.

Any law enforcement or counterintelligence or intelligence agency is only as good as its information. And the point on the multipoint wiretaps is that we would like the presumptions in the law to be similar in the national security area as it is in some of the criminal areas. If we have a subject who is out using cellular telephones and he has two cellular telephones and he's making phone calls on one number, and we have court authority to tap that phone, if he changes to the other number he has, we can't monitor that line. What this is is basically—what we're requesting is the technology has exceeded what the laws are, and we're suggesting—and hopefully you'll hear it—that the multipoint wiretaps would allow us to monitor a device on a subject that we have probable cause on.

Chairman SPECTER. So your essential request is that you are able to monitor the telephone calls of that individual regardless of how many phones he may be using?

Mr. BRYANT. Yes.

Chairman SPECTER. Now, if he goes to visit someone, would your authority to tap that person's phone be in existence?

Mr. BRYANT. I think that the point we'd have to have is the devices would have to be identified on which this person would be using. In other words, if he has a briefcase full of telephones, it would be incumbent upon us to basically state that and identify what those numbers are.

Chairman SPECTER. How about on my question—he goes to visit someone. Would you then place a tap on the person whom he's visiting?

Mr. BRYANT. I think what the tap would be would be on that person, but it would be to only the subject that we're trying to monitor. And so, I guess the easiest example, if you have—

Chairman SPECTER. But suppose there's another conversation. He goes to visit someone, Mr. Brown. Mr. Brown is talking to his daughter.

Mr. BRYANT. But that would be excluded. We would not monitor that. If the subject is not on the telephone conversation, then it would be minimized.

Chairman SPECTER. But the multiple tap would cover someone that he goes to visit.

Mr. BRYANT. Right. I think the best example, Senator, is where there's a bank of telephones where a person goes, and you have like five, six telephones, and a person goes to a telephone. We don't know which one he's going to use. Sometimes it's critical that we have the ability to monitor that telephone by surveillance and we see him go to one telephone—

Chairman SPECTER. To the extent that you monitor the individual, there's a reduction of invasion. You're going after a person where there's probable cause.

Mr. BRYANT. Right.

Chairman SPECTER. But to the extent that it reaches other people, that's where the problem may arise.

Let me move over—because my yellow light is on—to the 48-hour, emergency situation. And I understand the urgency if you have some life-threatening situation or some imminent danger, but isn't it possible to have a review by the judicial officer, the intervening magistrate between the government and the citizen, on an oral application? Isn't it possible to have judges available if you can't take the hour or two or three necessary to prepare a very careful affidavit of probable cause, to at least have some contact with the judicial official and make an oral application and have that kind of judicial review to have the constitutional protection?

Mr. BRYANT. I think what the suggestion is, though, in a life and death situation, as it is on the criminal side, what we request is that the Attorney General would have the authority to authorize that and then an affidavit be filed with the court authority within 48 hours. That's what we're requesting for.

Chairman SPECTER. Well, life and death is fine. And let the Attorney General authorize it. But why not have contemporaneously the agent make an application to a judge, perhaps even by telephone if necessary, so that you have that judicial review. There's a lot of concern with a lot of history to support it, going back to Justice Oliver Wendell Holmes in the Olmstead Case in the late '20s, wiretapping being dirty business, just a lot of concern about

that. In the case of emergency, okay. But why not contemporaneously some effort made to have judicial review?

Mr. BRYANT. If that's the process that comes out, we'll certainly obey it. All I'm suggesting to you is—

Chairman SPECTER. Yes, but would you support it?

Mr. BRYANT. Well, what we would like to see, though, is the 48-hour emergency wiretap put in. And that this review—a lot of times on these wiretaps, these emergency wiretaps that come back—and I've dealt with them, and they come primarily to myself telephonically, and we go straight to the Attorney General because time is generally of the essence. I mean, we don't do these—

Chairman SPECTER. Does the Deputy Attorney General have authority to authorize them?

Mr. BRYANT. Generally, if the attorney general is out of the city, I believe. I'm a little unsure on that.

Chairman SPECTER. And if the Deputy's out of the city, somebody else?

Mr. BRYANT. Well, we have to go to the Attorney General.

Chairman SPECTER. Just the Attorney General and the Deputy?

Mr. BRYANT. In my experience, Senator, we've dealt with the Attorney General. And I'm not sure what the chain of succession—

Chairman SPECTER. How many of them are there?

Mr. BRYANT. Very few. And on the criminal side, because that's where we—

Chairman SPECTER. More than 10 last year?

Mr. BRYANT. I don't know. I think that—I dealt with three personally.

Chairman SPECTER. Can you provide that for us? Perhaps in closed session?

Mr. BRYANT. Certainly.

Chairman SPECTER. Senator Kerrey.

Vice Chairman KERREY. Thank you, Mr. Chairman.

Mr. Bryant, I have a couple questions that I'd like you to answer or Director Freeh to answer at a later date, and provide me, if you would, the answers. The first one has to do with a question—are things worse in the United States today than they have been throughout this century? I mean, there's a tendency, I think an understandable tendency, when you have an attack such as this that we've experienced in the last couple of years to presume, oh, my God, the whole—you know, we're all going in the toilet, and it's more dangerous than it's ever been before. And I would like, if you could, just to examine the level of violence in the United States from 1900 to 1920 relative to today; level of violence from the 1920's during Prohibition relative to today; level of violence in the 1930's and the 1940's relative to today; 1950's during the anti-communist period; and the 1960's during a substantial civil disobedience period; the 1970's and 1980's during a period when we started to declare war on drugs.

I mean, I'd appreciate it very much if you could give us an historical perspective. Is it more or less dangerous? Do we have more or less civil disobedience? Is there more or less risk to the American people today than there was at some time previous to the 1990's?

Secondly, and sort of following along that line, one of the disturbing things to me is a message sort of goes out that, gee, we've got

a failure here. It seems to me, as I look at this—and I would appreciate again in a follow-on, answering sort of the general question, have we been successful or not? I mean, we are the most forward deployed nation on earth. We have more troops forward deployed than any country on earth. We are the leading fighter against terrorism on earth. If you're a terrorist, you're not afraid of Brazil and you're not afraid of Argentina, I mean, you're afraid of the United States, because we are the ones that are engaged. We are the leading supporter of Israel and most active in that part of the world where there is a substantial amount of terrorism. We are the leading nation trying to resolve that conflict.

We are the leading capitalist country and, as a consequence, a target of fundamentalist movements that see us as the Great Satan or whatever else it is that they call us. And we're the most open society on earth. And it seems to me that we have been successful in providing some peace and stability in the United States, that it's not accidental that up to now there's been a relatively small amount of violence in the country.

And I'd like to have you, again in a follow-on, answer the question. I mean, are we being successful? In my judgment, most of this stuff I can't talk open, but, you know, I see example after example after example. Indeed, the Director earlier, when he tracked back from 1994, those were successes. Those were instances where we prevented violence in the United States of America as a consequence of intervention. We deployed the resources and we achieved the success.

So, I would appreciate very much answers to both questions. First, the one that would put this thing in historical perspective and determine whether or not we have less violence or more violence today from terrorism or civil disobedience or anarchists or whatever that has the objective of trying to disrupt domestic tranquility. And secondly, as to whether or not with all the resources we are deploying and a substantial amount, not just in law enforcement but in national security as well, should the American people say, not doing a bad job? Given that we're the most deployed, that we're the leading anti-terrorist country, that we've been very active in the Middle East, that we're the leading capitalist nation. Have we been successful?

Chairman SPECTER. Mr. Bryant, you have the balance of Senator Kerrey's five minutes. I think it's about 18 seconds to go. No, you can go beyond that.

Vice Chairman KERREY. You can answer it later. I'd like to get it back from Director Freeh.

Mr. BRYANT. We'll get it to you, Senator.

Chairman SPECTER. Thank you very much.

Senator Cohen.

Senator COHEN. Are you prepared to answer it now, Mr. Bryant, in response to Senator Kerrey's question? You can say yes; you can say, no.

Mr. BRYANT. Well, I have some views on it, but I'm not totally sure it is totally supported by fact. But I think just generally—

Vice Chairman KERREY. Well, you're in good company, Mr. Bryant. Go ahead and—

Mr. BRYANT. No, I just think generally there is this—the United States of America has put forth a great effort to keep this a safe society. I think we have had significant successes, but we have significant challenges ahead of us. And I think in retrospect, looking in the past, I think the level of violence in this country has continued to grow. And I think it is a situation that's led by a lot of factors.

Vice Chairman KERREY. I would be very interested in the historical analysis of that, that America is more violent today than it was during Prohibition. More violent today than it was during the collapse of the great empires of this world and the rise of anarchy and that there's—I mean, I would be very appreciative of historical analysis because I think it is important for us when we're expending tax dollars, when we're considering moving to restrict civil liberties, I think it's very important for us to put this in historical context and try to determine exactly where we are today relative to where we were 10, 20, 30, 40 years ago.

Senator COHEN. Senator Kerrey, if I can just reclaim my time here because I do want to follow up on it. I'm not sure if I tend to agree with you that perhaps we have more violence in past years. But I would say that the level of violence that can be, in fact, inflicted by individuals today is perhaps greater than in any time in the history of the country. That we, for example, have roughly 1.2 million people passing through our airports every single day, passing through metal detectors that were designed to apprehend or detect hijackers who might be armed with a knife or a gun. I would think most people are completely unaware that any dedicated terrorist is capable of smuggling on plastics, other types of devices that weigh less than two pounds that can destroy and reduce a jumbo jet to shards in a matter of seconds.

And so, I think the level of terror that can—and the damage that can be done is much greater. And I think we have failed to take the kind of actions that are responsible. I mean, we've all focused on Pan Am 103, which occurred back in 1988 over Lockerbie. And that was the basis for a Presidential commission and the basis for an Airport Security Improvement Act of 1990. And we mandated at that time, we needed to deploy systems that would help detect these types of new explosives by the year 1993. We now have two systems, CTX-5000s, not being deployed, simply being tested in two airports, one in San Francisco, one in Atlanta. And compared to other countries—I'm just noting Europe, Asia, the Middle East, most of the other countries in the world have, in fact, deployed these systems with the notion that better that we take some incremental steps and use the best technology that we have rather than looking for the perfect system. We're not scheduled to deploy these systems at least until 1997 and maybe not until that time.

I want to just talk about historical perspective. Let me give you something. Another tragedy occurred back in September 8th in 1974, TWA flight 841. It departed from Tel Aviv en route to JFK. They had in-route stops scheduled for Athens, Greece, Rome in Italy. After a 68 minute stop in Athens, the flight took off for Rome. Eighteen minutes after the take-off, the Athens radio contact was lost and flight 841 crashed into the Ionian Sea. All 79 passengers aboard and nine crew members were killed.

The National Transportation Safety Board determined that the probable cause was the detonation of an explosive device in the cargo hold. At that time the Board recommended that FAA expedite the development of explosive detection equipment. That occurred almost 22 years ago. And we have yet to deploy a system that will detect this type of explosive device.

So, I would say that we have failed to learn from history's mistakes, that we are faced with a threat that is far greater in potential, in dimension, by virtue of the fact that a small amount, be it biological or chemical, or, indeed, explosive materials can inflict massive damage. And so while we may not be a more violent society than during Prohibition days or in the days of the wild, wild West, I think the capacity to inflict massive damage in the hands of a few people is something we have yet to come to grips with.

My time has expired, Mr. Chairman.

Chairman SPECTER. Thank you very much, Senator Cohen.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Bryant, actually what you're asking for, or what the President's asking for in anti-terrorism is, in a sense, to keep up with technology that's out there today, as far as your multi-wiretaps and so forth, you know, your roving stuff. But, in another sense, it's a big departure as far as some of the civil liberties that we enjoy are concerned. Is that correct?

Mr. BRYANT. I'm not sure I agree with that, Senator.

Senator SHELBY. Well, okay. Isn't what you're asking for, the wiretap authority, a big departure from what we have today?

Mr. BRYANT. No, I think it's a modification of some of the existing authorities we have in that area.

Senator SHELBY. Is it basically on the advent of technology, where you can keep up with technology?

Mr. BRYANT. Some of it is, some of it is, certainly.

Senator SHELBY. Although that will, I'm sure, help you react to terrorism and acts of terrorism and other things, as I said earlier, it's reactive rather than proactive, is it not, for the most part?

Mr. BRYANT. Parts of it, yes.

Senator SHELBY. And I know you don't make policy at the FBI. You carry out policy and you carry out investigations and you basically do a good job. But I'm concerned that what we're moving into in America is bunkers, bunker mentality; people are going to be scared to death. They're scared now. Yet, we really haven't gone to the root cause of terrorism. And, until we go to the root cause and try to really root it out on an international level, it's going to get worse. And, as I said earlier, people are going to fear and fear and fear about what's coming next. Do you share some of that?

Mr. BRYANT. Well, I think that the root causes of terrorism are—what we deal with is we want a program that's not only reactive, but also is proactive.

Senator SHELBY. You've got to have it.

Mr. BRYANT. And the suggestion that I would make to you is the best way to be proactive in some areas is to have good information. And that certainly comes from the Intelligence Community. It comes from our ability to collect information on people for which there is probable cause to believe that they've committed a crime.

And I think it's very important that we have ability to use some of these techniques to, one, prevent acts of terrorism—that's our first mission—and, second, is to investigate them out after they happen. We have prevented acts of terrorism and so the United States, has done a fairly good job, particularly in the intelligence community, the military, et al.

But I just suggest to you, these tools that you're looking at and considering, there's two missions here: To prevent and investigate. So, we're not totally reactive. And, once again, I repeat this. We're only as good as our information.

Senator SHELBY. You have to collect information, but you've got to act on it, haven't you?

Mr. BRYANT. Yes, sir.

Senator SHELBY. Mr. Chairman, I'll wait till the next witness. That's all.

Chairman SPECTER. Okay, thank you very much, Senator Shelby. Senator Kyl.

Senator KYL. Mr. Chairman, since I just arrived, I won't have any question at this time. Thank you.

Chairman SPECTER. Okay. We thank you for coming and just giving the opportunity.

Well, thank you very much, Mr. Bryant.

Mr. BRYANT. Thank you, Senator.

Chairman SPECTER. We very much appreciate you coming in and Director Freeh coming in. We thank you for your service. And it's been very helpful to the Committee. So thank you.

Mr. BRYANT. Thank you very much.

Chairman SPECTER. We'll now turn to our second panel—two distinguished former Secretaries of Defense: the honorable Caspar Weinberger, who has an extraordinary record going over, if I may say, Cap, over half a century. It is absolutely extraordinary. Secretary Weinberger served on the intelligence staff of General Douglas MacArthur in World War II. He has held many key positions in the Federal government—the Director of the Office of Management and Budget in 1972 and 1973. He then was Secretary of Health, Education and Welfare from 1973 to '75. He returned to the private sector as general counsel and vice president and director of the Bechtel Corporation until 1981, when he became Secretary of Defense the day after the President was inaugurated, sworn in, on January 21, prompt Senate action. I recall the vote. I'm pretty sure it was unanimous when he was confirmed, when that team came in at that time and served until the end of 1987. We saw a great deal of him on Capitol Hill as he testified before the various Committees and did an extraordinary job. He's currently the chairman of Forbes Incorporated.

And we have a very distinguished former Secretary, James Schlesinger, who again has an extraordinary resume. He worked with the Rand Corporation at the start—from 1960 to 1967, and then was assistant director of the Bureau of Budget in 1969, and the Office of Management and Budget from 1970 to 1971, then served as Chairman of the Atomic Energy Commission, then was director of Central Intelligence, then Secretary of Defense. And he was the first Secretary of the new Department of Energy and is currently chairman of the board of Mitre Corporation, which under-

takes research and development for command, control, communications and intelligence for the Department of Defense.

We're going to double your time, Mr. Secretary or Mr. Secretaries, and give you 10 minutes on opening, if we could set the clock there—the maximum amount of time for dialogue, questions and answers.

Secretary Weinberger, the floor is yours.

STATEMENT OF HON. CASPAR WEINBERGER, FORMER SECRETARY OF DEFENSE

Secretary WEINBERGER. Thank you very much, Senator. It's a great honor to be here, Senator, and members of the Committee. It's the most important work that you're doing and a very important hearing that you've had this morning and I'm honored, indeed, to be asked to appear here. I'll try not to take the full minutes, but I would welcome the opportunity to try to answer some of your questions, and work with you on this extraordinarily important field.

Separating international terrorism and domestic terrorism—and there are not only jurisdictional and political problems involved in that, but it is important I think to look at the two different aspects. And Senator Glenn asked earlier, and Senator Cohen and others, about the idea of a policy rather than simply reacting. And I think that is an important thing, although reaction can be a policy.

And basically, what we tried to do—and it was illustrated in the bombing of the Berlin discotheque by Libyans—when we had absolute evidence that we felt was conclusive proof that the terrorists had been sponsored and trained and paid by the Libyan government to perform that act of terrorism, then we proceeded against them militarily. We bombed sites that were associated with the terrorist acts. We did it very—in very substantial numbers. There were over 100 planes in the air, and it was, I think, a very successful activity.

It sent Mr. Qadhafi off the radar screen for about two years, and it was only when he probed again with the Lockerbie case, as the State Department concluded, that he emerged again as another terrorist threat.

The contrast and the thing that concerned me at the time was that, instead of taking additional action against him at that time, when that had been established, and I think you pointed this out, Mr. Chairman, we did not. We asked for extradition of the people that we felt were involved in that act. When that was denied, we talked about sanctions. There are some sanctions in effect against Libya, but I don't think that's as effective as the kind of immediate military response that's necessary when you have the absolute proof. With many terrorist acts, we don't have proof and we're not able to take that kind of action. But the knowledge that would be taken and the knowledge that it had been taken, and the knowledge of how effective it can be, I think are very important aspects to a policy of responding as soon as you have the proof that is felt to be complete.

Domestically, domestically-sponsored terrorism—again, I don't think there's any problem with the same principle being applied; that once the identity is established, as it was in the World Trade

Center activities, immediate action is taken through our courts and that has, I think, the effect of signalling not only to the world but to any domestic terrorists that their activities are going to be investigated. When the proof is there, they're going to be punished, and that's a certain knowledge that that's going to happen.

Two or three times we've had references today to what could be done to wipe out the root causes in different parts of the world. I agree with Senator Shelby that is the thing that offers the most ultimate hope. It is also the most difficult aspect to it. On the road to that, I think the important thing is to take as much pains to re-establish and strengthen our HUMINT capability, our human intelligence capability of gathering material, of penetrating these organizations, infiltrating them, and giving us an idea of what they're planning to do ahead of time. And that, I think, is essential because it's the only way we're really ever going to have any preventative action is to know ahead of time what's being planned and to take the necessary steps at the time to stop it actually happening.

And all the airport security and all of those things are absolutely vital, and I agree that we should be using the latest methods that Senator Cohen referred to. I have no problems with the idea of the taggants or with the longer range electronic oversight of conversations where the suspects have been clearly established to be suspect or things of that kind.

I do feel that we do, obviously, have to have concern for the innate civil rights of everybody involved in these things, and I have great problems and with the posse comitatus expansion. That is using the armed forces for police work or for things that are not really consistent with their basic mission. I don't have any problems with their sharing intelligence or with their sharing their technical knowledge and skill, which is considerable. But the actual use of the military for any kind of police work, I think is a very unwise activity, and I so testified earlier on.

I think there's some things that we should not do, and one of the things I think we should not do is give any kind of recognition or any kind of respectability to known terrorists. Unfortunately, I think we've done this in the case of a man called Gerry Adams, who is a world-class terrorist and yet was invited to the White House and has been dealt with as a person with whom we can negotiate. It has been proven false. The bombing continues. He is either unable or unwilling to do anything to control it—by the IRA—and yet he has been given this international respectability by the way he was received here. And I think that's a great mistake.

Another example of that to my mind is our willingness to deal with a world-class terrorist country, North Korea, by taking their third promise to scuttle their nuclear weapons program, and our response was to give them the international respectability they've always wanted by dealing with them and to give them two nuclear reactors that are capable of producing plutonium which goes into nuclear weapons. So I think that has been an unfortunate example of what not to do in dealing with terrorist organizations and terrorist countries.

I think that sanctions are important. Isolating the countries are important. The administration is going to do that with four countries: Iran, Iraq, Libya and The Sudan. And they took the propo-

sition to this international conference that was held a few days ago in Paris and it was turned down by the European members, and so we didn't pursue it. And again, I think that is an important thing to try to do. Of course you should use sanctions. The sanctions are not enough, but they certainly should be used, where you have the evidence that a country is pursuing terrorist methods and activities.

Mr. Chairman, that concludes the few observations that I wish to make. And I'll be very glad to try to deal with any questions you might have.

Chamrian SPECTER. Well, thank you very much, Secretary Weinberger. We do appreciate your being here, and we'll have some questions for you right after Secretary Schlesinger's testimony.

Welcome, Mr. Secretary.

STATEMENT OF HON. JAMES SCHLESINGER, FORMER SECRETARY OF DEFENSE

Secretary SCHLESINGER. Thank you, Mr. Chairman.

Mr. Chairman, Members of the Committee, let me make four observations. First, with the end of the Soviet-Warsaw Pact threat, and especially with the display of American technical military prowess in the Gulf War, as long as we maintain our defense spending, the only people that might contemplate going against the United States militarily would be fools.

The Russians, at this time, are too weak, as their performance in Chechnya suggests. The Chinese are preoccupied. So the only way to get at the United States is through terrorism. Terrorism is the weapon of the weak. It is the weapon of choice of subnational groups. And over the course of the next three decades or so, it is likely to be a principal, if not the principal threat, to the national security of this country. And increasingly terrorist activities are likely to take place on U.S. soil rather than on foreign soil, although U.S. forces overseas will remain a principal target.

My second point. While terrorism is the principal available alternative to others, there are new and powerful incentives to make use of terrorism. The United States is at the forefront of international organizing activities against terrorist organizations. It has been the spearhead for constraints on rogue states, the ones that Cap just mentioned. It has been the principal force behind the Middle East peace process, which is despised by some and about which others are ambivalent. And by placing itself at the forefront of this international movement, the United States elicits terrorist attacks.

It is not certain that over time the U.S. public is prepared to pay the price for international leadership. And that, of course, adds to the temptation to use, to test with terrorism. We have had some notable bugouts—an elegant bugout in Lebanon, a rather unelegant bugout in Somalia. We are likely to leave Bosnia with the task incomplete. The mission in Bosnia seems to be to—the exit strategy. And there is a feeling amongst potential terrorists that just one more successful attack against American forces, as in Saudi Arabia, may drive us out. There were, of course, signs of international participation in that attack on Saudi Arabia.

My third point. Not only are the incentives growing—and here is a very critical point for you gentlemen to bear in mind—but so are the capabilities available to terrorist organizations.

The industrial nations, especially the United States, are providing the means of terrorism. Weapons, STINGERS are somewhere out there as a result of Afghanistan, RPGs, Soviet SAMs. All understand the availability of easy explosives by combining fuel and fertilizer.

In the area of communications, we are now providing overhead reconnaissance, photographs for those who wish to purchase them commercially. And if we do not provide them—we do not offer them, they are offered by the Russians—I will be happy to send you the appropriate address, if you're looking for those kinds of photographs—and by the French. And this is combined with a free Global Positioning System signal so that you can locate your target and then direct yourself to it.

There is the Internet. On the Internet, if you're interested, you can get the formula for sarin, the nerve gas that was employed in the attack in the Tokyo subway. Such organizations as Sinn Fein and the Shining Path, the Peruvian terrorists, now have Web pages on the Internet. And the Web page of the Shining Path is particularly interesting. It provides pictures, icons, of Mao Tse Tung and Lenin and the hammer and sickle—all of this becomes available through improved technology.

And it can be used—the Internet can be used for more than information and propaganda. The Internet can readily be used for delivering messages, and in the massive traffic on the Internet, it is hard to detect those messages.

In addition, with regard to communications, we have information warfare. Information technology can be used not only for crime, but it can be used for terrorism. The White House has recently established the Commission on Critical Infrastructure Protection, which Senator Kyl and Senator Nunn were so important in driving that forward. This is an area of great future vulnerability of the United States, and terrorists will find their way to that vulnerability.

We provided technologies. We have provided over the years nuclear technology, how to produce nuclear fissionable material and how to build a bomb.

My fourth subject is policy responses. Two initial points. No, there is no way completely to close down terrorism if one is dealing with a determined foe. There are fanatics out there. They will not be deterred. But you can deter against less fanatical foes and you can, in addition, provide security measures that will thwart terrorist attempts.

The second initial point. If we and others show that we will yield to terrorist pressure—this is a development of the times that Cap referred to—including pressure on others to yield to terrorists, the invitation to resort to terrorism only rises. We cannot close down terrorism completely, but payoffs means that terrorism will flourish.

It is necessary in our policy to be serious and be consistent, and that means more than rhetorically serious. The temptation to temporize is overwhelmingly strong. There are multiple temptations; in 1979 the temporizing with the Ayatollah Khomeini, I think, sent a

signal to the outside world that the United States could readily be intimidated; also the negotiations in the early 1980s with the hoped-for deals with moderate Iranians. Cap has mentioned the negotiations with the IRA. The visit of Mr. Adams to the White House sends a signal that terrorists become acceptable. And when President Assad is invited to Sharm el Sheikh to denounce terrorism, it is improbable in my mind that President Assad will be seduced into a total denunciation of terrorism.

It is essential to send signals that are clear to the terrorists. If the trumpet gives an uncertain sound, none will come to the battle. It is always a complicated problem in sending those straight signals, but it is essential to try to avoid ambiguity.

There are other elements that I should mention. Let me just tick off two of them. Intelligence, particularly human intelligence. If, as has recently been the case, we tell those engaged in collecting human intelligence that our priority for them is not to use people who have not been sensitive on human rights, we will be foregoing the opportunity to gather intelligence. The kind of people—if one wants to penetrate a terrorist organization, one needs to deal with thugs. And we are now—we are now threatening those in the DO that if they are insensitive on human rights, they will not be promoted, a very powerful signal.

When the evidence is clear, as Cap has said, one should strike with force, disrupt the opponent before they are ready to act.

I was asked about economic sanctions. Economic sanctions in general are a tool of dubious effectiveness.

Thank you, Mr. Chairman.

Chairman SPECTER. Thank you very much, Secretary Schlesinger and Secretary Weinberger. You bring a lot of decades of collective wisdom between the two of you.

I pose two questions, one with respect to retaliation against nation-states which sponsor terrorism, and the second question with respect to use of force to arrest people who are under indictment, under extraterritorial jurisdiction, which we have now in quite a number of cases, perhaps most notably the Pan Am 103 case.

On the retaliation—and I begin with you, Secretary Weinberger—you were secretary of defense at the time the bombing was carried out in 1986. I remember the day well, April 14. There was a meeting upstairs in S-407 where there was a briefing of Senators. It was a packed house. And there had been the bombing of the discotheque in Germany, as you recited, and we had solid proof. And the bombing was undertaken. And then the State Department made a finding November 15, 1991, "The government of Libya was responsible for the bombing of Pan Am Flight 103 on December 21, 1988." Now, no action was taken against the country of Libya. There are many complex considerations on that, such as what would be the counterreaction. For the United States to act, it's extraordinarily difficult to gather evidence as to who did what. And then we require a very high level of evidence before we will act. And then we are concerned about striking innocent people, unlike the terrorists who function as a needle in a haystack and they don't care whom they maim, murder, assault, kill.

So what is the—what ought a policy to be? And then we have the effort to assassinate former President Bush.

Secretary WEINBERGER. Yes.

Chairman SPECTER. And a missile was put into the Iraqi intelligence headquarters on a weekend. Should we retaliate? Should we have acted as to Libya on 103? Should we retaliate yet in a forceful military way? Secretary Weinberger?

Secretary WEINBERGER. Yes, sir.

Senator, I think that when you have the kind of proof that we had in the—in the La Belle Discotheque case in Berlin that you referred to, you should react and you should react in a way that is designed to convey the message that terrorism, when it is found, will be punished.

Chairman SPECTER. How would you react, Mr. Secretary?

Secretary WEINBERGER. In which case?

Chairman SPECTER. Well, against Libya, Pan Am 103?

Secretary WEINBERGER. Well, I think grounding there is very clear. The State Department doesn't make those findings lightly. And they have made that finding that—that Libya was responsible. I think there's no doubt about it myself, and I think additional military action against terrorist targets in Libya would have been perfectly justified or warranted.

Chairman SPECTER. Against terrorist targets?

Secretary WEINBERGER. I'm sorry.

Chairman SPECTER. Terrorist targets? Military action against terrorist targets.

Secretary WEINBERGER. Yes, in Libya, and——

Chairman SPECTER. Bombing?

Secretary WEINBERGER. Yes. We did that after the Berlin discotheque terrorist activity. We picked out terrorist targets very carefully. We picked out the training ground where they'd been trained. We picked out various military headquarters that had—where they'd been launched. We bombed airfields where they had used facilities and those bombings were very accurate and very——

Chairman SPECTER. You weren't in office on November 15, 1991.

Secretary WEINBERGER. No.

Chairman SPECTER. But do you have any idea why we didn't respond once the State Department had——

Secretary WEINBERGER. No.

Chairman SPECTER [continuing]. Had this evidence?

Secretary WEINBERGER. No, I do not.

There is—you mentioned a very interesting point and that was the opposition of a lot of our allies to strong action of this kind.

In the Libyan bombing, you may recall, that Britain authorized us to use the planes that we had in England to take off for that raid. France did not. France's action in refusing us permission to fly over France required that we have four additional nighttime refuelings with radio silence, which is an extremely hazardous enterprise, but we managed to carry it off.

We were told, and I was told shortly before a NATO meeting after the Libyan bombing, that this had horrified most of our allies and they were making public comments to that effect. At the NATO meeting of defense ministers, I was interested to note that every defense minister came up to me privately and said that it was an entirely proper action to have taken and it was the best way to deal with terrorist acts of this kind. And I think that when

you have that proof, a response of this kind directed against terrorist activities—not indiscriminate bombing of Tehran or something like that, but right against the targets that are connected with terrorism, it's not only justified, but it's required.

Chairman SPECTER. We see that in the Senate from time to time—lots of support in the cloakroom, not too much support on the floor.

Secretary WEINBERGER. Right.

Chairman SPECTER. Secretary Schlesinger, take the situation as to former President Bush, the response by a missile into the Iraqi intelligence headquarters on a weekend. Was that sufficient? If not, what should have been done?

Secretary SCHLESINGER. No, sir. No, sir. Let me reiterate what Cap said. Where there's clear evidence, we should strike with force.

In your initial question, you said, when should we strike? We must strike back quickly in retaliation. You cannot allow four, five, six, seven, eight months to pass, because you must strike in the heat of anger. Otherwise the international reaction will be even worse than if you strike back in anger. They will understand that.

On the weekend is not the time to strike. The purpose was to avoid killing intelligence officers. I think that it indicates both an ambivalence on our part about striking and it does not provide the proper disincentive to such intelligence officers to get out of the business that they're in.

Chairman SPECTER. Secretary Schlesinger, my orange light is on, so I ask you one final question. If we can identify the whereabouts of the men under indictment—two Libyans under indictment for Pan Am 103—do you think it appropriate to undertake military action which might result in casualties, fatalities, to Americans in order to take into custody those two individuals and bring them to trial.

Secretary SCHLESINGER. I think it appropriate. I don't know whether it's politically acceptable, but I think it is appropriate. I think—I would emphasize that one must distinguish among various nations that to use these kinds of mechanisms against—methods against our allies would, I think, be more costly than otherwise. When one is dealing with the Libyas of the world, then the decision is a lot easier.

Chairman SPECTER. We proceed in order of arrival at the hearing. Senator Cohen is next.

Senator COHEN. Just a couple of quick questions. Dr. Schlesinger, I must agree with your suggestion about striking back immediately and not allowing a great deal of time to expire. The question becomes what if it takes six or seven months to accumulate the evidence in which to draw the link between the act itself and the nation that may have either granted sanctuary, moral, financial, political support to a particular group? At that point in time, is it too late to strike?

For example, we know now about Libya's role in the Pan Am flight. Would you recommend that we strike terrorist targets in Libya given the situation this might present for President Mubarak of Egypt by way of example, hypothetically?

Secretary SCHLESINGER. I don't think it's necessarily too late to strike. I think that at the time of the incident, one should an-

nounce that as soon as we have accumulated evidence, we plan to go after the target, so that everybody on the international scene is forewarned that that is America's intention. Then you can allow four or five months to go by and say, "We have now got the evidence and that is why we struck, but we told you right at the time."

Senator COHEN. Would you take one step backwards, however—

Secretary SCHLESINGER. Sure.

Senator COHEN. Rather than saying at the time of the incident and rather have a policy which articulates today and for all time that this is going to be our policy. If there are terrorist acts directed against American citizens here or abroad and they are, in fact, supported by any nation in the form of safe haven, financial, political, other types of support, military support, we intend to strike as soon as we acquire the information without regard to international condemnation, caution, words for heat, any of that—we are going to do this and then carry it out?

Secretary SCHLESINGER. I think that it is essential to announce that policy, that we retain the liberty to strike. If we have the Warsaw Pact out there—just to take that example—and the Czechs are providing—Czechoslovakia is providing great assistance to terrorists, they're being trained—or in East Germany—given the relationship between the two blocs under those circumstances, one hesitates to strike at a Soviet satellite. So we should retain the right. Where you have an independent country out there—the Libyas of this world, possibly the Syrias under present circumstances—then you should not only reserve the right to do it but you should go after it.

Senator COHEN. Would you—

Secretary SCHLESINGER. The Bekkaa Valley, for example, which is more or less under Syrian direction is a fomenting ground for terrorism.

Senator COHEN. Secretary Weinberger has suggested that perhaps we strike at terrorist camps, training camps or facilities. Would you confine it to terrorist camps? I would ask you, Secretary Weinberger, as well. I assume that you believe in something called disproportionate response. In other words, if we were to lose ten or 12 people, we should not be trying to respond in way that simply tries to have a rough equivalent amount of damage, but rather a very strong disproportionate message being sent. The question I would have is why confine it to terrorist camps or facilities rather than, let's say, economic power—economic infrastructure that would have a direct and immediate impact upon the government and perhaps get their attention even more so. It would cause certainly economic harm to innocent civilians but it would put a great deal of pressure upon the government itself.

Secretary WEINBERGER. Well, I don't have any problem once there is some kind of connection established between the target and the terrorism. I think that is essential to do. I'm a little worried about the use of the term proportionate, because that generally ends up with our feeling we can't do anything. And I think it's important that we do something and something very vigorous and very actively. We did go into—one of the targets was an intel-

ligence headquarters, fairly near to the tent that Qadhafi was occupying that particular night. Another was the training ground, another was an airfield from which they had support facility, things of that kind.

I think that it's simply a matter of picking out the appropriate targets, and if they are directly connected with the terrorists, that's one thing. If they have an indirect connection, I would think those are appropriate also.

Secretary SCHLESINGER. Go to the seizure of the U.S. embassy in 1979 by the Ayatollah Khomeini. One did not have to explain who had done it. It was clear and unequivocal proof. My recommendation at the time was to provide a list of targets and send a message through to Tehran—that unless these people are released, we are going to go after those targets, including, in fact, foremost among them were power plants. So I have no hesitation under those kinds of circumstances of broadening the list because one knows that there is clear government sponsorship.

Secretary WEINBERGER. I think, Mr. Chairman, if I might, just one other quick point. The point of angering allies was raised, and it's a very valid point. In a fairly recent case involving the terrorists who pushed Mr. Klinghoffer off a boat. We found out the plane they were going to be riding in, and brought that plane down, even though it was in Italian jurisdiction, in an Italian area, Italian sovereignty. They were very unhappy over this.

But I think it was again something that had to be done. And it was done very quickly and very surgically. And I think that in time, most of those affronts, as they are seen at the time, can be readily erased.

Chairman SPECTER. Well, that was Abou Abbas, and the Italians let him go to the Yugoslavians and then tried him in absentia and gave him a meaningless sentence.

Secretary WEINBERGER. True.

Chairman SPECTER. Mr. Secretary, let me—

Secretary SCHLESINGER. But remember those circumstances, if I may, Mr. Chairman. U.S. forces surrounded that plane, and then they were ringed about by Italian forces, much larger in number. So one has got to be quite aware of the circumstances.

Chairman SPECTER. Before, Senator Shelby begins, Secretary Schlesinger, you were there, and you made the recommendation to bomb Iran. What about the hostages inside the U.S. embassy? What about the risk to them?

Secretary SCHLESINGER. It was—

Chairman SPECTER. I'm not disagreeing with you necessarily, but I raise that question.

Secretary SCHLESINGER. Yes, in my judgment—in my judgment, once the message was delivered unequivocally to Khomeini, who had a streak of realism, he would have yielded on the point, and the hostages would have been released then rather than a year later. But he might have gone berserk and he might have inflicted damage on those hostages. The overall message, though, should be that the United States does not yield to or grovel with regard to terrorism.

Chairman SPECTER. Thank you.

Senator SHELBY. Thank you, Mr. Chairman.

To both of you, both of you former Secretaries of Defense and Secretary Schlesinger, also Director of the CIA, you bring a lot of experience to this table today. Secretary Schlesinger, some of your four observations that you made just a few minutes ago, basically saying the incentives are growing for terrorism, and the means to carry out terrorism is growing. We have an open society here which contributes to that in a lot of ways. Basically, are we losing the war right now on terrorism? We certainly haven't won it, if it's going to grow, and I believe it is.

Secretary SCHLESINGER. We are not losing the war, but we are providing munitions, as it were, to the other side, which enables them to continue their activities for a longer period.

Senator SHELBY. Basically, your message, as I understand it, if you have terrorism, it's going to strike fear in a nation or nations and fear in the population, which it does, not knowing when it's going to come, the means it's going to come, but realizing it could come any time. Is your message basically, we've got to fight fire with fire? And we've got to do it expeditiously; otherwise, it's meaningless.

Secretary SCHLESINGER. We've got to fight fire with fire, but we must also fight it with brains first, and we must look ahead.

The material that the United States has released with regard to the production of nuclear materials, for example—we released the methods on the calutron because we thought it was no longer cost-effective for us. Saddam Hussein decided that it was cost effective for him. But it was all in the open literature. And we do that regularly. So we must take the long view with regard to terrorism. And something that is quite useless as a production means for the United States may be very useful for somebody else.

Senator SHELBY. For somebody. And very cheap, too.

Secretary SCHLESINGER. Yes.

Senator SHELBY. Secretary Weinberger, I believe one of your statements is that reaction—reacting to something is a means or a form of policy. And I agree with that. It is a policy. But I hope it's not our only policy. How far should we go, and how do we go to get our allies or all the nations in the world who are vulnerable like we are to terrorism to cooperate? There's been very little multi-lateral cooperation in our fight against terrorism because of this reason and that reason. But a lot of reasons go back to oil.

Secretary WEINBERGER. I agree, Senator. I think that we have to—we have to make it clear that we are going to follow this policy even though we may have allied opposition. I have spent a lot of time in office and subsequently supporting NATO and supporting the whole idea of our participation in NATO and its expansion. But there are times when even our NATO allies are going to take positions that do not match ours in our feeling that terrorism should be combated with a very strong reaction once we have clearly established the guilt.

And I think that we are going to have to recognize that we may not always have our allies' support on those things. I think if the action that we take against terrorism succeeds, as it did in Libya, we're going to find that the opposition melts away pretty quickly. And I think it's important that we recognize that we may have to act alone, and that is one of the reasons why it's essential that we

keep up our strength as well as our determination. But I think the quickest way to find out about these things is to improve our intelligence capability, and I hope we can do that. I think that it's better now. We almost destroyed the HUMINT capability in the '60s and '70s because it was felt to be a dirty business, but one way or another, we have to recognize that we need eyes in this kind of world, and that comes from the kind of intelligence, HUMINT capability that we need to acquire.

Yes, we're going to have situations in which we're going to be standing alone against some of our best allies, but it's essential that I think that we move when we know the facts and when we know that the only kind of signal a terrorist understands has to be given.

Senator SHELBY. One last thing, Mr. Chairman, if I could. And a lot of our information that we need, human intelligence is not generally going to be obtained at the golf course, is it?

Secretary WEINBERGER. In?

Senator SHELBY. At the golf course—it's going to be obtained—

Secretary WEINBERGER. No, no.

Senator SHELBY [continuing]. From people that are thugs, are terrorists.

Secretary WEINBERGER. No, no. Yes, you have to be—you have to infiltrate the agents into these organizations.

Senator SHELBY. Where they are.

Secretary WEINBERGER. Yes, and that's a very unpleasant task, and it's a heroic task that the agents perform. But we've had them do it in many situations, given us invaluable information. But we need more of it.

Senator SHELBY. Thank you.

Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Shelby.

Secretary SCHLESINGER. Mr. chairman, may I add a word on that?

Chairman SPECTER. Secretary Schlesinger.

Secretary SCHLESINGER. I said, Senator Shelby, that we have to be really serious rather than rhetorically serious.

Going back two decades, we have regularly pledged to cooperate with other nations on intelligence gatherings. This is a recorded announcement. We had a couple of such recorded announcements in the last few weeks. 1984, for example, we agreed at the London Summit on closer cooperation and coordination between police and security organizations and other relevant activities, especially in the exchange of information intelligence and technical knowledge.

That is fine, but that is rhetoric. In practice, one discovers that intelligence organizations and police organizations don't really trust each other and don't really like to pass on their best goodies and the Americans are quite reluctant, really, to pass on a great deal of information.

On the question of human intelligence, other nations now distrust the United States in providing information because they fear that it will leak. And all of this interferes with the capacity to co-op—the real capacity—

Senator SHELBY. And often times with good reason to fear.

Secretary SCHLESINGER. Yes. Real capacity to cooperate.

Senator SHELBY. Thank you.

Chairman SPECTER. Thank you, Senator Shelby.

Senator KYL.

Senator KYL. Thank you, Mr. Chairman, and thank you for holding this important hearing. I just have to say what some of my colleagues here have. To have both of you here today provides us a tremendous degree of experience and wisdom, and what you have testified to is so important. I hope that your experience shared with us will be disseminated to all of our colleagues and form the basis for our response. I think everything you have said is very, very wise.

With respect to the matter of human intelligence, there is a story in the Washington Times today that points up a potential problem in the balance that may have been struck here. It deals with the CIA rules that were put into effect following the so-called Guatemalan incident, which, according to the article and according to several people who commented, unnecessarily hampered the recruitment of agents into this rather unsavory business of providing information to us. And it seems to me, Mr. Chairman, since you were directly responsible for bringing much of the information to light relative to that matter, and conducted some very important hearings on this, that understanding the need for the proper balance between concern for human rights, but also acknowledgement that in this business of HUMINT, it is impossible to do business at the country club, as Senator Shelby pointed out. We will need to provide fairly significant oversight, it seems to me, into the question of whether the rules that have now been put into place by the CIA are overly restrictive in the recruitment of assets necessary to the performance of this very important function. And I hope that we can engage in that oversight, as time goes on.

Chairman SPECTER. Senator KYL, I think that is a very important subject, and we will do just that.

Senator KYL. Thank you, very, very much.

Secretary SCHLESINGER. Senator?

Senator KYL. Yes, sir?

Secretary SCHLESINGER. Might I just throw in here that the laying down of a directive with regard to promotion policies is critical here. Once you tell your officers they will not be promoted if they misbehave, they are going to lean in the direction of avoiding, quote, "misbehavior," unquote.

Senator KYL. That's exactly the concern that we have and I think that is the importance of the oversight here.

Now, both of you also referred to the assistance we are providing, and Secretary Schlesinger, you in particular talked about what the industrial states are providing here. During the Cold War we had effective—fairly effective, partially effective export controls. But the target there was much easier. Now those export controls have evaporated, and unfortunately we are faced with, it seems to me, some very difficult questions regarding stopping the transfer of technology and information that is useful—used by terrorists against us as well as other nation states.

In this regard, I would like to bring up three things. And by the way, Secretary Schlesinger, I appreciate your mention of the information warfare issue. We haven't paid enough attention to it and

we have got to really focus on it. This Administration has got to get serious about that.

But two issues. With regard to the overhead satellite issue that you mentioned. I am going to say, Mr. Chairman, that I think some of us were misled, some Members of the body were misled, because the Defense Authorization Bill was just negotiated to take out a critical term that I believe would have prevented one meter resolution photos being made available to anybody in the world. As a result of the language that was finally negotiated, in which the negotiators took out the term routinely, commercially routinely available, it is my understanding now that there will be a finding by Secretary Deutch—by Director Deutch, that since Russia provides, on some basis, one meter resolution photos, that therefore countries will have access to our very best technology, in effect, down to one meter resolution. That would be very, very bad.

And finally—and I am making some statements and I would like to get reaction from the panelists here—but on the matter of encryption here, we have some very fine proposals here with respect to wiretapping authority to keep up with technology. But we're not keeping up with technology with respect to encryption and use of—by terrorists of computers, which is going to occur, if it has not already.

The Administration's position is as follows, quote, "Encryption. We will seek legislation to strengthen our ability to prevent terrorists from coming into possession of the technology to encrypt their communications and data so that they are beyond the reach of law enforcement. We oppose legislation that would eliminate current export barriers and encouraging the proliferation of encryption which blocks appropriate access to protect public safety and the national security." I support that statement 1,000 percent and I believe that this Committee can help lead the way in pointing out to our colleagues why it is so important that this position be effected into law. Now that's a long—that's a five minute statement but I'd appreciate the comment from both of our distinguished panelists.

Secretary WEINBERGER. Well, Senator, I agree completely that the rhetoric of that statement is completely challengeable. It should be, indeed, the policy. What I worry is that I'm afraid it's not the policy. And when I was in office many many years ago now, we had a constant fight between the Defense Department and the Department of Commerce as to what should be released and what shouldn't be released. The Department of Commerce, understandably perhaps with their charter, wanting to increase trade and make sales and our great worry as to what could be secured as a result of some of the things that we were allowing as exports, particularly to very dubious countries.

Unfortunately, I think that the Commerce view is prevailing now, as you said, with the idea that we no longer have a cold war. I've been particularly disturbed that the amount of material at the Department of Energy has felt it necessary to release, all in the interests of some kind of openness and fairness or whatever is the motive. But there are a lot of threats out here. There are a lot of very serious risks to the United States security in the world and just because the Cold War has been won doesn't mean that the world is suddenly free of any threats. And I think we do have to

have our guard up and I think we do have to protect the technologies that we have developed and that have been stolen in many cases, and in many cases simply handed over. And that is a very serious aspect to not only the terrorist problem but to the whole aspect of national security.

Senator KYL. Thank you.

Chairman SPECTER. Thanks very much, Senator Kyl.

Secretary SCHLESINGER. I agree with that statement that you read. As Cap Weinberger has indicated and for himself, it's a very difficult problem. Terrorists are going to have greater access to encryption irrespective of our policy because they will be sold these devices by some of our industrial partners. And we ought to be working with those partners on that kind of question otherwise they will be a lot freer to carry on conversations that we cannot reach, or cannot reach readily.

Chairman SPECTER. We're joined by our distinguished colleague from Tennessee, Senator Thompson. We had invited the members of the Judiciary Subcommittee on Terrorism. Senator Thompson was in the early '80s a consultant to the Intelligence Commission. Senator Thompson.

Senator THOMPSON. Thank you very much, Mr. Chairman.

Gentlemen, with regard to the area of human intelligence, you've pointed out the importance of it. I assume that you probably think that with regard to foreign terrorism and the CIA that perhaps we're verging on maybe placing too many restrictions on our agency there. I was wondering what you thought with regard to domestic terrorism and the FBI. Have either of you perceived any lack of authority or any steps we have taken by oversight with regard to the FBI that is hampering the FBI in any measurable way from addressing the domestic terrorism problem?

Secretary SCHLESINGER. Well, that gets into critical Constitutional questions, Senator, which you as a lawyer are more familiar than I am at least. Cap is a lawyer. It seems to me that we may have gone so far in the protection of criminals, reading them their rights and so on, that there is undue—at least from the standpoint of this citizen—restriction on our law enforcement officials.

Secretary WEINBERGER. I think the only areas that I would want to comment on, Senator, and I think it's a very good point, are the worries that are expressed about, for example, some of the newer technologies. It has a very unhappy description. That is a roving wiretapping. That sounds pretty awful. But as was explained this morning by the FBI, it simply involves sometimes trying to defeat well-known criminal activities of getting multiple numbers and multiple locations.

The taggant controversy seems also to be one where we are not realizing the importance that tracing explosives can be to the—not only ordinary law enforcement cases, but also to terrorist activities, and I think these would be areas where the FBI's powers could indeed be expanded with due regard for the proper use of those powers, checked by this Committee in its oversight. It would be possible to authorize some of these new methods on a pilot basis for a year or two and have careful oversight by this Committee as to how they are working out. But I think that these are—these are

law enforcement powers that are essential in this kind of a world, at least to try out.

Senator THOMPSON. In other words, responding to the changing nature of the problem that we're having to deal with?

But also one would have thought that if these were good ideas before the pipe bomb explosion in Atlanta, if they were good ideas now, they'd have been good ideas before then.

Secretary WEINBERGER. Exactly.

Senator THOMPSON. Which brings me to my only other question really. You talk about the need for us to not give comfort to the other side in these battles, and to not give in to terrorism as we've all been talking about recently, and the President's appointed a terrorism task force now since the Atlanta bombing. I don't know what's going to come out of that, but I've heard of at least a dozen proposals now that members of the House, Senate, Administration is coming up with and on an expedited manner. I guess we'll be called on to vote either today or tomorrow on an array of measures since the Atlanta bombing.

We're not getting into the details of them because it will have to do apparently with wiretaps and the taggant issue and everything from that to additional murder laws, I guess, for murders at the Olympics or some such idea.

What what kind of signal does that send? I mean, on the one hand does that say to terrorists that we get together as a nation, you know, make sure that we've got every law possible on the books that we can think of to deal with this and that's going to dissuade them somewhat or on the other hand, does it say that—that any time some deranged person explodes a pipe bomb that it's going to cause a national convention and emergency session almost to pass an array of new criminal laws that have not been thoroughly vetted. Do you have any ideas about what's going on here with regard to that in terms of our national response to these individual actions that happen?

Secretary WEINBERGER. Well, Senator, as far as the Atlanta situation is concerned, and I certainly don't have all the facts on it by any means, it seems to me we have ample laws on the books now that deal with whoever is caught and ample laws to enable us to track—track down potential suspects. I think that large summit meetings and very big gatherings, well-attended by the press are, I support, an inevitable reaction to an incident of this kind. But I think the important thing really is what are we going to do, not what are we going to say or talk about. And I don't know of any new law that is necessary to deal with whoever did the Atlanta bombing. We can adopt individual laws saying that anybody that kills an Olympic athlete is also guilty of murder, but I don't think that it is as effective as the certain knowledge that when the proof is found, and we will be indefatigable in hunting for the truth, we are going to punish the people responsible, sends a far more certain signal and a far more effective signal to people who may be thinking about this kind of thing.

Secretary SCHLESINGER. I agree with the point that the problem is less new legislation than the will to exercise that legislation that's already on the books. There is one footnote though. Technology is changing. Talk about wiretaps. the fact is, as we move

from copper wire to fiber optics, that it becomes harder to conduct those wiretaps. We have not looked at the Internet sufficiently as an alternative and I'm sure that that is being explored by those who might make use of the Internet—as my earlier comments suggested.

So the legislation should be moving abreast of the change in technology.

Senator THOMPSON. Thank you very much.

Chairman SPECTER. Thank you very much, Senator Thompson.

Thank you, Secretary Weinberger, Secretary Schlesinger.

We have, I think, shed some considerable light on very, very important issues. These hearings are sort of difficult. When you have the director of the FBI, the podium is filled, and later in the session when it's almost three hours, we tend to thin out a little bit. But I think that there is a vital need for very active public consideration to what we do, how we respond. Tempers are up right after the incidents, and they cool off with the crisis of the week. It is not 40 days since the 19 American servicemen were lost in Dhahran in a cowardly act of terrorism, and that's already off the back burner, replaced by TWA and the events in Atlanta. But we're going to have to give some hard thought to the issues.

I'm impressed, Secretary Schlesinger, with what advice you gave about bombing Iran after they seized our embassy in 1979. That strong, tough action—it involves obvious risks to the people in the embassy. And Secretary Weinberger, you were right there when the bombing was undertaken against Libya. Sort of incomprehensible that the French would not even allow us an overflight but made us undertake those expensive, dangerous, really, refuelings which were involved at that time.

And our Committee's going to be reviewing the indictments which are under seal to see if there's any way we can locate those indictees and bring them to justice because we can't allow this war to go on in a one-sided way. I quoted President Reagan earlier what he said in 1981, the Soviets liked the arms race as long as they were the only ones in it. And then when the United States joined the arms race, we broke the back of the Soviets and have eliminated that threat, and now we have a war—terrorism war where only the terrorists are at war, and we have to declare war, find a way to deal with them.

So we thank you very much for bringing your experience and wisdom to the table today.

That concludes our hearing.

Secretary WEINBERGER. Thank you, Mr. Chairman.

Secretary SCHLESINGER. Thank you, Mr. Chairman.

[Thereupon, at 12:17 p.m., the hearing was concluded.]

BOSTON PUBLIC LIBRARY



3 9999 05983 949 6

ISBN 0-16-054157-3



9 780160 541575